

# **ASSESSMENT OF THE BUSINESS AND INVESTMENT CLIMATE IN THE ARMM AND STRATEGIES TO ADDRESS THE PROBLEMS**



Prepared for the Growth with Equity in Mindanao (GEM-2) Project  
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By

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## **GLOSSARY**

ABC	ARMM Business Congress
ADB	Asian Development Bank
AFMA	Agriculture and Fisheries Modernization Act
AFP	Armed Forces of the Philippines
ARC	Agrarian Reform Communities
ARCP	Agrarian Reform Communities Project
ARG	ARMM Regional Government
ARMM	Autonomous Region in Muslim Mindanao
AusAid	Australian Aid
BEAM	Basic Education Assistance for Mindanao
BOI	Board of Investments
BOT	Build-operate-transfer
BSO	Business support organizations
BSP	Bangko Sentral ng Pilipinas
CAAM	Conflict-affected areas in Mindanao
CFSI	Community and Family Services International
CIDA	Canadian International Development Agency
CIDSS	Comprehensive and Integrated Delivery of Social Services
DAR	Department of Agrarian Reform
DBM	Department of Budget and Management
DBP	Development Bank of the Philippines
DepEd	Department of Education
DILG	Department of Interior and Local Government
DOF	Department of Finance
DPWH	Department of Public Works and Highway
DTI	Department of Trade and Industry
FCF	Fixed capital formation
FDI	Foreign direct investment
FIAS	Foreign Investment Advisory Service
GDP	Gross domestic product
GEM	Growth and Equity in Mindanao
GENPEACE	Gender and Culture of Peace in Mindanao
GMO	Genetically modified organism
GOP	Government of the Philippines
GRDP	Gross regional domestic product
IMAG	Infrastructure Monitoring Advisory Group
IPP	Investment Priorities Plan
IPRA	Indigenous Peoples Rights Act
IPU	Investment promotion unit
JBIC	Japan Bank for International Cooperation
KFA	Konrad Adenauer Stiftung
LGSP	Local Government Support Program
LGU	Local government unit
LRC	Land Registration Commission
Mal-Mar	Malitubog-Maridagao

## **GLOSSARY**

MBC	Mindanao Business Council
Medco	Mindanao Economic Development Council
MILF	Moro Islamic Liberation Front
MNLF	Moro National Liberation Front
MOU	Memorandum of understanding
NCIP	National Commission for Indigenous Peoples
NEDA	National Economic and Development Authority
NGO	Non-government organization
NSCB	National Statistical Coordination Board
ODA	Official development assistance
OPEC	Organization of Petroleum Exporting Countries
OSY	Out-of-school youth
PEZA	Philippine Economic Zone Authority
PNP	Philippine National Police
PTA	Parents and Teachers Association
RA	Republic Act
R-BOI	Regional Board of Investments
R-DTI	Regional Department of Trade and Industry
REZA	Regional Economic Zone Authority
RLA	Regional Legislative Assembly
RPDO	Regional Planning and Development Office
SME	Small and medium enterprise
STAR-CM	Support to Agrarian Reform in Central Mindanao
SZOPAD	Special Zone of Peace and Development
TEEP	Third Elementary Education Project
TESDA	Technical Education and Skills Development Authority
TLRC	Technology and Livelihood Resource Corp.
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development

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## EXECUTIVE SUMMARY

### Trends in the Mindanao economy

A brief period of relative peace, highlighted by the signing of a peace pact between the government and the Moro National Liberation Front (MNLF) in 1996, enabled Mindanao to attract more investments, grow faster, and reduce its incidence of poverty.

Ironically, the Autonomous Region in Muslim Mindanao (ARMM), despite having been granted autonomy as the centerpiece of the peace agreement, hardly benefited. Its poverty situation even worsened. Investments that went into the ARMM were mostly for small infrastructure, livelihood and social projects, which had limited immediate positive impact on the region's economy, although ARMM's gross regional domestic product (GRDP) growth, at 3.8% p.a. in 1992-2001, was higher than the 3.3% p.a. for the entire country.

When hostilities resumed in 2000, Mindanao went into a tailspin, exacerbated by the lingering aftershocks of the Asian financial crisis of 1997-1998. The ARMM, however, is slowly recovering from this downslide.

### Private investments in the ARMM

ARMM generated interest among foreign (mostly Malaysian and Middle East Muslim) investors in the second half of the 1990's. But few ventures were initiated and fewer still succeeded, as most were overtaken by the deterioration of the peace and order situation in Mindanao. Inadequate technical, management, marketing and financial capacity of potential local business partners was also blamed for many lost opportunities.

The few business successes that did occur underscored the importance of strong local business leadership with extensive political influence and access to physical resources (e.g., land, credit, etc.), coupled with support of the ARMM government. They also showed that a well-run business could help contain the peace and order problem. For these businesses, the more serious problems were technical (e.g., improving product quality) and economic (e.g., weak market, competition) in nature, rather than peace and order. Hence, the importance of tapping businessmen who are already in the ARMM and the role of the business elite in catalyzing business growth in the region are highlighted.

### Deterrents to investments in the ARMM

This study found that the more critical reasons why the ARMM is not getting more private investments are the following:

- Peace and order – most investment plans, especially by outsiders, were aborted because of the deterioration in ARMM's security situation. Although the ARMM residents claimed that only 20% of the region's area is "*no man's land*," the non-ARMM businessmen in Mindanao insisted that the peace and order problem is not only a perception but also a reality. Outside investors were unwilling to distinguish between the risky areas and the safe areas.

- Weaknesses of the ARMM business sector – the ARMM business sector has limited participation in the formulation of business-oriented policies in the region, because the ARMM has only recently started to institute a forum for consultation with businessmen. For its part, the ARMM business sector needs to improve its skills in various aspects of business – finance, accounting, marketing, volume and quality of output, etc. – to be able to exploit opportunities, particularly those offered by agribusiness.
- Policy-making and governance issues – it was noted that the ARMM regional government was not taking full advantage of its powers under the autonomy granted it, missing the opportunity for formulating rules that are more business-friendly than national laws provide and more relevant to the needs of the region. The local governments lack a customer-orientation, tending to regulate rather than facilitate business.
- Inadequate infrastructure – there is a need to construct vital infrastructure facilities, especially in the island provinces where expansion of agricultural output and the prospects of attracting processing facilities investment are hampered by inadequate power, cold storage facilities, telecommunications and ports.
- Poor state of education – the ARMM has the lowest educational achievement in the country. This could be one reason why the region has the highest incidence of poverty – with the requisite skills and educational attainment of workers lacking, the ARMM is handicapped in attracting job-creating investments into the region.
- Limited access to credit – some local businessmen wishing to expand are unable to do so because of inadequate collateral, and even if collateral is available, the valuation banks assign to these assets is low. Another issue is that probably not enough banks and bank branches operate in the ARMM.

### **Strategies for improving the ARMM business climate**

- Address the peace and order problem

That is the basic essential, and that message came through very clearly.

There must be genuine peace to attract any significant levels of investment into the ARMM. While lasting peace is an elusive goal, peace talks appear to be the only way that this could happen, although this would require patience and is not expected to happen overnight.

The successful conclusion of a peace agreement with the Moro Islamic Liberation Front (MILF) can help contain the peace and order problem to an even smaller pocket of areas, enabling crucial development and poverty-alleviation projects deterred by unstable peace and order conditions to be put in place. With more development projects in place, prospects for the expansion of productive opportunities will be better, resulting in the “*loss of will to fight*.”



A military policy that is more oriented towards keeping the peace rather than winning a war could be the proper posture in Mindanao, and the ARMM government and the top military leadership need to consult each other on this matter. It would also help if the military maintains presence in areas designated as economic zones.

Tapping the assistance being offered by other countries could partly overcome the resource limitations of the military organization – provided military aid is used properly. The ARMM law enforcement agencies also need assistance to make them more effective in fighting crime, in view of their increased responsibility as a result of the devolution of local police functions to the ARMM government.

- Strengthen the ARMM business sector

Despite recent initiatives led by GEM at mobilizing ARMM businessmen towards creating a favorable policy environment for business in the region, and the recent passage of the Regional Economic Zone Authority (REZA) bill, more needs to be done.

ARMM needs to pass its own investment incentives code (a bill has already been submitted to the Regional Legislative Assembly (RLA) for deliberation) and to draw up its own investment priorities plan, as activities that are likely to be attracted in the ARMM – development of large plantations, agribusiness, expansion of existing industries, etc. – are mostly not in the list of those that are being given incentives under the national investment incentives laws. A scheme drawn up by the ARMM can potentially provide a package of incentives that is more attractive than provided at the national level.

At the local government level, there is a need to make business registration procedures simpler, facilitative, and transparent. The reforms can focus on providing customer-oriented service, development of an information system, simplification of business registration and renewal processes, participation of the business sector as observers in local government bidding process.

A “*search team or committee*” can also be formed to identify local people and groups with strong potential for entrepreneurship and business growth. Market-led trade and investment programs can be built around them, including a package of support to strengthen them in areas where they are weak and facilitating their matching with large companies. The team/committee may also wish to consider giving annual entrepreneurship awards to deserving ARMM business entities. As part of business matching, the team can draw up a list of companies interested in some form of contractual arrangement with local businessmen and/or farmers’ organizations, and discuss with these companies the business possibilities in the ARMM.

The ARMM government, at this point, needs to draw up a medium- to long-term blueprint that targets business opportunities well beyond the current commodity-specific trade and investment initiatives being spearheaded by GEM. Over the medium-term, new high-value crops could be developed, while agro-processing and light agro-based manufacturing could be the agenda for commodities currently being geared for increased production. Over the long-term, new opportunities can be looked at – mining, gas and oil; tourism; industrial forestry; and light manufacturing and assembly.

- Strengthen the business-related policy-making capacity of the ARMM government

The ARMM government can formally tap representatives from the business community as advisors in business-related policy-making. Regional investment agencies like the Regional Department of Trade and Industry (R-DTI) and Regional Board of Investments (R-BOI) would stand to benefit from the creation of policy advisory bodies, inviting representatives from business support organizations (BSOs) or the ARMM Business Council (ABC) to sit as members of these bodies. The formation of a Senior Business Advisory Council, composed of prominent businessmen in the country who will advise the ARMM Governor on business policy matters, is also a step forward.

Developing a Policy Reform and Change Agenda, consisting of proposed enabling bills to jumpstart business and investment activities in the ARMM, is what a collaborative effort between the ARMM Executive and Legislative branches should be aiming for. Insights on what these beneficial policies are can be drawn from a review of the powers granted by the Organic Act to the ARMM government. Experts can then be hired, with donor support, to conduct the relevant research, draft the enabling laws, and lead policy change activities on critical business issues. The existing Legislative-Executive committee needs to work more actively on this Agenda, in an effort to come up with priority bills for legislation, and for the RLA to work hard in passing these bills.

The ARMM can sell itself as a good laboratory case for a possible shift towards federalism should efforts to change the Constitution push through. Hence, initiatives towards strengthening ARMM political institutions, political feedback process, bureaucracy, systems of governance, etc. need to be done. This provides a worthy experiment on which approaches would work and which wouldn't. By the time federalism is adopted, the country would be reasonably prepared to make it work, as it would then have the ARMM model to look up to.

At the local levels of government, technical assistance need to be provided by the central and regional government agencies to ARMM local government units (LGUs) to make the devolution of basic services and facilities identified in the Local Government Code work. The ARMM LGUs have to develop self-reliance to reduce the burden on the higher levels of government, and to improve the standing of the LGUs among the creditors and investors.

- Address ARMM's infrastructure constraints

There are only a few major infrastructure projects programmed for implementation in the ARMM, yet most have remained unimplemented for several years now.

A collaborative effort among the ARMM government, Mindanao Economic Development Council (Medco), Mindanao Business Council (MBC) and other influential groups in Mindanao to push the national government to implement vital infrastructure projects, and to increase the share of ARMM and Mindanao in the infrastructure budget as promised, can raise the chance for accelerating infrastructure development in the ARMM and Mindanao.

The Official Development Assistance (ODA) support office of the ARMM government can be made to work more effectively as a single point of contact to assist donors and to develop project proposals. But it should be a facilitative clearinghouse, not a controlling body. The Regional Planning and Development Office (RPDO) provides the support in terms of identifying and programming projects that are consistent with and supportive of the development thrusts of the region, hence expanding the pipeline of projects that the ODA support office can propose to donors. The RPDO has to develop the technical competence to do this, through assistance from national agencies like the National Economic and Development Authority (NEDA) and personnel training grants. The Infrastructure Monitoring Advisory Groups (IMAGs), established with the assistance of GEM to help solve problems encountered in infrastructure implementation, need to be more active in discharging their task of ensuring the proper and speedy implementation of projects.

A number of options has been suggested to address the constraint in counterpart financing, a major bottleneck in the implementation of infrastructure projects: counterpart in kind (e.g., land donations, volunteerism or self help, etc.); more cost-effective project designs to reduce costs and, proportionately, the counterpart funding requirements; tapping of grants; and revenue enhancement measures at the regional and local levels, through such schemes as rationalization of fiscal incentives and property taxation. Private sector participation in infrastructure development can also be promoted through the passage by the RLA of build-operate-transfer (BOT) law that is simpler, more flexible and more relevant to the conditions in the region.

- A more effective delivery of education in the ARMM

Foreign donor initiatives have made ARMM education improvement a priority, and these initiatives need to be sustained as creating a positive and lasting impact through education is a long-term proposition. Private and business groups, and even the ARMM LGUs, also need to step up their involvement to create an enlarged pool of funds for programs on education. Most of all, the ARMM government must insist that the national government raise its per pupil spending on ARMM education to the national average (US\$138), not the 32% lower than the average that prevails today, even if this means having to lower share of the other regions.

The primary focus of the initiatives should be to keep children in school, in keeping with the UN Millennium Development Goals that place universal primary education as a cornerstone. The ARMM has the lowest elementary and high school participation and completion rates in the country. Parents have to be encouraged to participate in school activities through the strengthening of the Parents and Teachers Associations (PTAs), to sustain their interest in keeping their children in school. Peace efforts also need to succeed to create a favorable environment for education as constant clashes disrupt classes.

Realistically, however, funding constraints suggest that remote places in the ARMM will have no schools for some time. For these areas, and even for the adults who hardly attended school, distance learning could be the interim solution, so donor and non-government organization (NGO) support for equipment and teaching modules needs to be tapped for this purpose. Other non-formal system of education can also be introduced and strengthened – e-learning (education through the Internet), which means each barangay with electricity must have at least one personal computer

primarily for educational purposes, and one of the thrust of e-learning could be on improving English language proficiency.

The ARMM out-of-school youth (OSY) must also be given special attention, as they are the ones most likely to join the bandits and anti-government groups. The idea is to get most of them back to school. OSY-oriented programs, such as those provided by the Community and Family Services International (CFSI), a non-profit organization, could be improved, replicated and expanded. A multi-stakeholder approach should be considered. Moreover, higher education scholarships to poor but promising ARMM students should be expanded, not only in terms of beneficiaries, but also in terms of expense items other than tuition fees. The students must be able to complete college without worrying about where to get the money to subsist.

#### *The bottom line*

The bottom line is that investment in any significant amounts will not flow into the ARMM until genuine peace is achieved. That will take a long time, and dramatically improving the educational system will be a key factor in it.

In the meantime, the ARMM regional and local governments can, and need to, dramatically improve its capability to get things done – and to make it easier for businessmen to do business in the ARMM. The gradual step towards self-reliance can be given some boost if they start to seriously consider viable ways of enhancing their own revenues.

## **ASSESSMENT OF THE BUSINESS AND INVESTMENT CLIMATE IN THE ARMM AND STRATEGIES TO ADDRESS THE PROBLEMS**

### **1.0 BACKGROUND, RATIONALE & OBJECTIVES**

Mindanao experienced significant positive economic changes in the mid-1990's. The peace initiatives that culminated in the signing of the peace agreement between the national government and the Moro National Liberation Front (MNLF) in 1996 helped create a positive outlook for Mindanao, and this translated into improved investor interest in the island. Donor support also helped establish the foundation for an enhanced investment climate, and the levels of commitment from donors increased further after 1996.

Unfortunately, the Autonomous Region in Muslim Mindanao (ARMM) continued to lag behind the rest of Mindanao, as the region received minimal government support in terms of infrastructure development. A number of projects were either delayed or not implemented due to constraints in the national budget and/or security risks. As a result of inadequate infrastructure and peace and order problems, ARMM was unable to attract significant levels of private investments. Nonetheless, donor initiatives were undertaken, including those of the Growth and Equity in Mindanao (GEM) Program, to strengthen the ARMM business community, provide sustainable employment and income opportunities to former MNLF combatants and other groups, expand social services, and build the capacity of the ARMM government and local governments. Opportunities in trade and investments were also identified. These efforts, however, need to be reinforced by strategies to improve the business and investment climate.

### **1.1 Methodology**

The assessment of the ARMM business and investment environment was based on the analysis of statistical data, including how ARMM data compare with those for Mindanao and the entire country. Relevant reports and documents, such as the 1998 Foreign Investment Advisory Service (FIAS) report, the consultation results of the First ARMM Business Congress, the accomplishment reports of critical GEM projects and activities, the Organic Act for the ARMM (Republic Act No. 9054), were reviewed to identify the region's investment weaknesses, strengths, threats and opportunities. This was validated by interviews with key informants – ARMM businessmen and key government officials, non-ARMM businessmen, donor organizations, etc. (*see Appendix A for list of key informants*) – which were conducted in May-June 2003.

The field interviews sought not only to confirm problem areas in attracting businesses into the ARMM, but also to solicit suggestions from the informants on how to address these problems. Unfortunately, most of those interviewed could not give specific, sensible solutions. Nonetheless, the recommendations benefited as much from these interviews as the Consultant's long experience, quarterly and annual surveys, and

numerous researches done in the past dealing with foreign and local businesses operating in the country.

## **1.2 Study rationale and objectives**

AYC Consultants was commissioned by the GEM Project to identify strategies to address the constraints to business growth in the ARMM, drawing from past experience and lessons learned from them, as well as insights from people on the ground.

The Terms of Reference further specified that the AYC Strategy Paper recommend specific and pragmatic measures to improve the business climate. This means the Paper should suggest what mechanisms, policies, regulations or legislation would be necessary. And also, who would conduct these activities.

In essence, the strategies are meant to attract large-scale investors into, and foster business development and expansion in the ARMM.

The implementation of the measures is assigned a time frame – i.e., what can realistically be done in a relatively short-term period; and what should be performed over the medium- and long-term.

The investigations conducted by AYC suggest that this would not be an easy task. A realistic assessment of the situation and more importantly what to do and how long it will take dictates a lowering of expectations, with the most optimistic outcome (of ARMM being seriously considered as an attractive investment area) taking more than a decade or perhaps decades.

The identification of issues was the easy part; the measures recommended to address these issues, however, do not guarantee that the business conditions in the ARMM will improve overnight, as there are other formidable challenges that are beyond the scope of this Strategy Paper. These challenges include a complex of inter-related issues, such as achieving lasting peace, transforming values from one of dependence to self-reliance, developing entrepreneurship, and improving governance. Some solutions are suggested along these areas, but admittedly they barely scratch the surface, would require further consultations and fleshing out, and do not guarantee immediate success. The idea is to simply bring the efforts on the right track, laying the groundwork for a gradual build-up towards a more business-oriented environment in the ARMM.

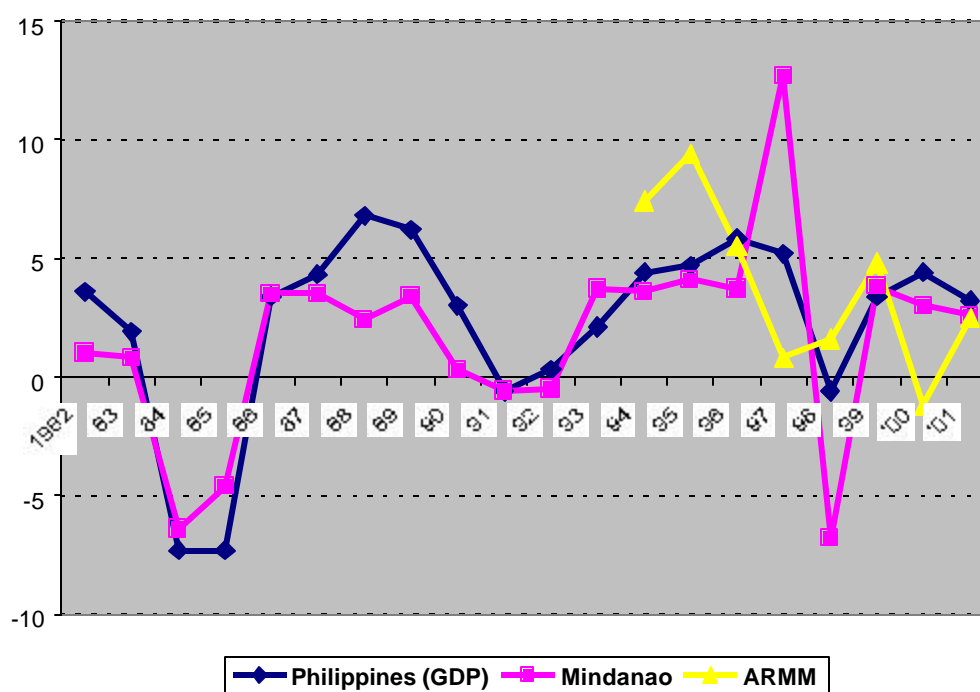
## **1.3 Trends in the Mindanao economy**

### ***1.3.1 Mindanao vs. Philippines: 1990's to early 2000's***

The signing of the Peace Agreement between the national government and the MNLF in 1996 initially helped improve the climate for economic development in Mindanao. It triggered a massive flow of international donor assistance into the island. Confidence rose, attracting more investments into the area. But even before 1996, the serious efforts of both sides to come to an agreement had already resulted in a revival of interest in investing in the area. Pockets of potential growth areas were identified – General Santos, Davao and Cagayan de Oro among them – and were ready to take-off as the pursuit of peace took a more serious turn.

As Figure 1-1 and Table 1-1 show, Mindanao's economy, as measured by the real gross regional domestic product (GRDP), generally grew faster in 1992-2001 (except in 1998, when the Asian currency crisis and a debilitating drought simultaneously occurred) than in the previous 10-year period, i.e., 1982-1991. Mindanao also almost matched the growth of the national economy (gross domestic product or GDP). Moreover, there was an improvement in the island's poverty situation during the same period, although not as significant as elsewhere in the country. Some of the gains were siphoned off in 2000 by the difficult global and national economic environment between 1998 and 2000 (*Figure 1-2*).

**Figure 1-1. COMPARATIVE REAL GROSS REGIONAL DOMESTIC PRODUCT (GRDP) GROWTH RATES (%)**



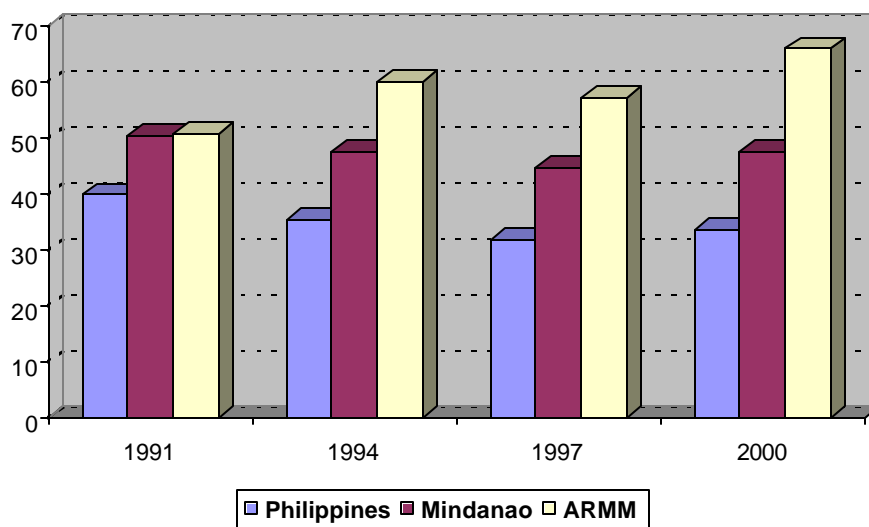
Source: National Statistical Coordination Board (NSCB)

**Table 1-1. COMPARATIVE REAL GROSS REGIONAL DOMESTIC PRODUCT (GRDP) GROWTH RATES (% p.a. average)**

	<i>Past 10 years (1992-2001)</i>	<i>Previous 10 years (1982-1991)</i>
Philippines (GDP)	3.3	1.4
Mindanao	3.0	0.3
Autonomous Region in Muslim Mindanao	3.8	-

Source: National Statistical Coordination Board (NSCB)

**Figure 1-2. POVERTY INCIDENCE (% OF FAMILIES)**



Source: National Statistical Coordination Board (NSCB)

Mindanao's relatively rapid growth in 1992-2001 was fueled by investments as reflected in a higher percentage of fixed capital formation (FCF) to GRDP post-1993. The percentage, however, was lower than the national average, indicating that the island continued to attract lower investments relative to the size of its economy than the rest of the country (*Figure 1-3*).

It appears that the larger part of the investments generated in the island was in the form of government infrastructure projects (including those implemented by private entities through the build-operate-transfer or BOT schemes<sup>1</sup> such as power plants). As *Figure 1-4* shows, investments in public construction as a percentage of GRDP in Mindanao almost matched that of the Philippines after 1993 and was generally higher starting 1998.

Productivity of investments in Mindanao in 1994-2000 was also only marginally better, generating 0.7% GRDP growth for every 1% growth in FCF vs. the 0.5% in 1988-1994. It was also low compared to the national average of 1.3% GRDP growth generated for every 1% FCF growth (*Table 1-2*).

Data from the Board of Investments (BOI), translated into US\$ to partly correct for inflationary effects, confirmed the trend in investments. While cumulative investment registrations in Mindanao at US\$1.75 billion in 1993-2002 improved significantly from US\$612 million in 1983-1992 — a three-fold increase, it still was an underperformance

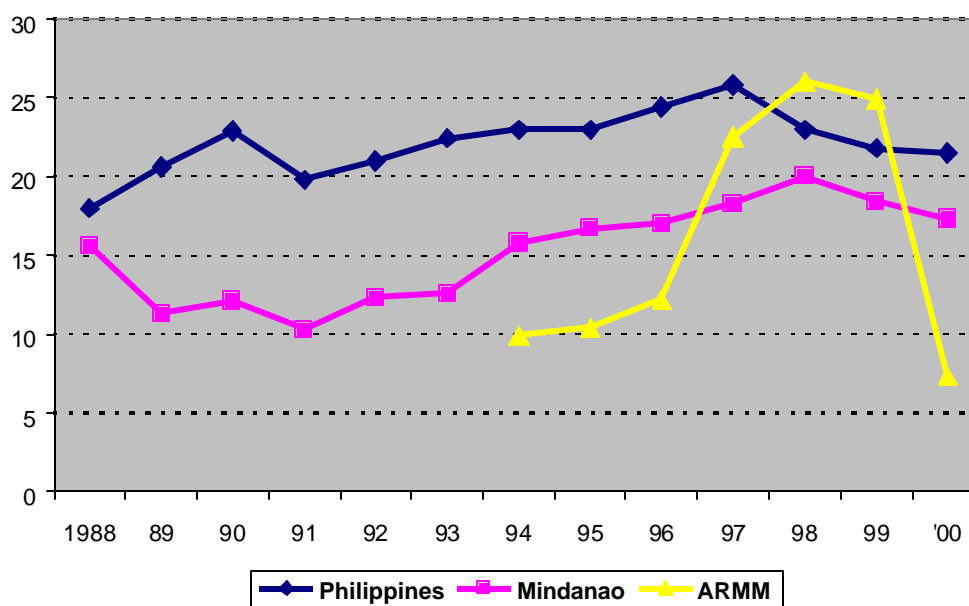
<sup>1</sup> In 1994, the Philippine Congress passed Republic Act No. 7718 (amending RA 6957), which set the legal framework for the financing, construction, operation and maintenance of infrastructure projects by the private sector under various schemes of participation. Projects with private sector participation approved under RA 7718 become known as BOT projects. As of mid-2003, there were 49 completed and 23 on-going BOT projects all over the country, including 10 in Mindanao.



compared to the entire country which posted a higher five-fold increase. The number of BOI-registered investments in Mindanao, however, almost doubled to 295, while for the entire Philippines it fell by 9% to 2,800.

But the donors' increasing attention to Mindanao was apparent, and was reflected in the rising share of the area in the amount of official development assistance (ODA) committed after 1990 (*Figure 1-4*).

**Figure 1-3. FIXED CAPITAL FORMATION (FCF) AS % OF GROSS REGIONAL DOMESTIC PRODUCT (GRDP)**



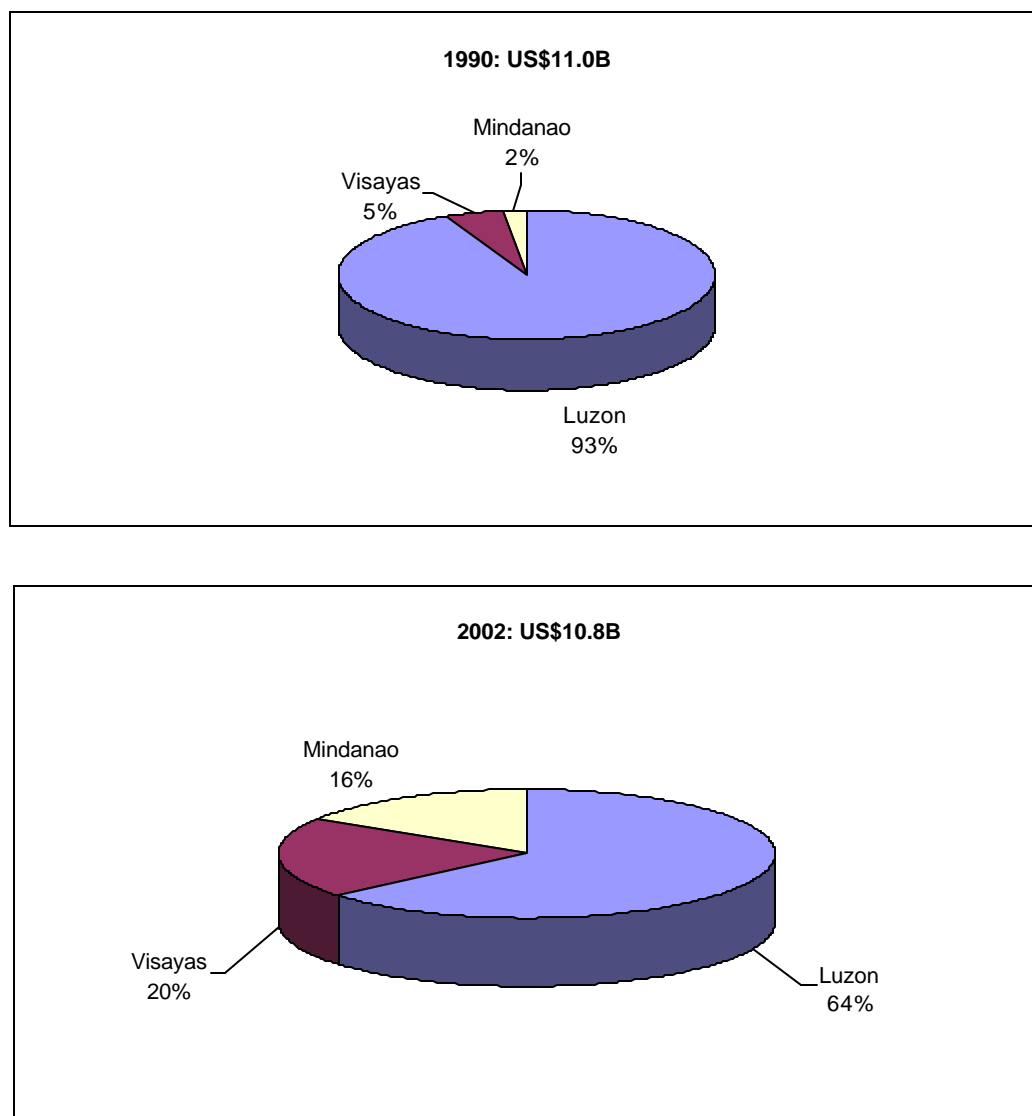
Source: National Statistical Coordination Board (NSCB)

**Table 1-2. GROWTH OF FCF AND GRDP  
(% p.a. average)**

	FCF		GRDP		GRDP growth per 1% FCF growth	
	1994-2000	1988-1994	1994-2000	1988-1994	1994-2000	1988-1994
Philippines	3.0	7.5	3.8	2.6	1.3	0.3
Mindanao	5.1	3.7	3.4	1.7	0.7	0.5
ARMM	11.9	-	3.5	-	0.3	-

Source: National Statistical Coordination Board (NSCB)

**Figure 1-4. OFFICIAL DEVELOPMENT ASSISTANCE (ODA) COMMITMENTS\***



\* *Inter-regional and national projects assumed to be in the same proportion as projects for specific island groups*

Source: National Economic and Development Authority (NEDA)

### **1.3.2 Economic trends in the ARMM**

The ARMM initially benefited in terms of faster economic growth from the peace initiatives and the grant of autonomy, with its GRDP growing at a pace higher than the national average at 3.8% p.a. (GDP for the Philippines: 3.3% p.a.) in 1993-2001. But this was due, in part, to its low level of economic activity in the 1980's and early 1990's. The

region's growth slowed down immediately after the resumption of hostilities in 2000, although there are indications that it is starting to recover in 2002.

Despite the growth in GRDP, the poverty situation deteriorated – to 66% of families in 2000 from 51% in 1991. This could be due to at least two factors: firstly, the 3.8% p.a. GRDP growth was not sufficient to reduce poverty incidence (countries in Asia that were able to significantly create and spread wealth more widely were those that sustained GDP growth of 5% p.a. or higher); secondly, the growth was not spread equitably. For example, major private investments in the region – which could have created the jobs that could help reduce poverty – have been few and far between, with the initial interest waning after 2000.

Investments in the ARMM, mostly originating from the public sector and international donors, came in spurts. ARMM briefly enjoyed a surge in investments, outperforming the entire country in terms of growth at 11.9% p.a. in 1995-2000, and in terms of the share of FCF to GRDP. Unfortunately, the region either failed to utilize these investments productively or had very low absorptive capacity, as each 1% growth in FCF led to only 0.3% growth in GRDP. Major private investments, or projects costing above US\$50 million (mostly cement and power projects), went to non-ARMM areas.

Records from the National Statistical Coordination Board (NSCB) showed that although ARMM had the lowest public investments (economic and social infrastructure) in absolute peso terms in the country, at only around P4 billion annually during the past five to six years, these figures were the highest in the country as a percentage of the ARMM's economy or GRDP. According to the NSCB data, ARMM's public construction averaged 12.5% of GRDP in 1994-2000 vs. only 4.5% for the national average (*Figure 1-5*). At the rate of 12.5%, and assuming that the usage of the public funds was just as efficient as the rest of the country (0.4% growth in per capita GRDP for every 1% infrastructure spending to GRDP – half of the Asian standard of 0.8% per 1%-point spending to GDP), ARMM's GRDP growth would have been at least 8% p.a., not the 3.8% it actually was.

The low output growth generated by public investments in the ARMM could be due to the following:

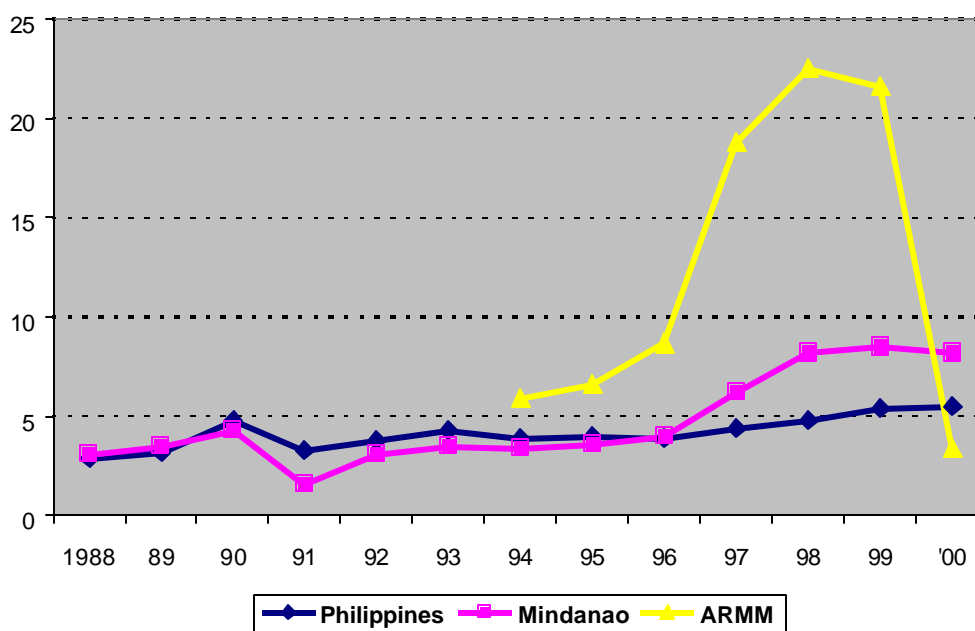
- The business environment in ARMM has not been adequately supportive of rapid economic growth at the regional level from infrastructure investments alone. Peace and order problems restrain private investment that can leverage public investment into growth. This is compounded by problems found in other parts of Mindanao but worse in ARMM such as poor market access, expensive and difficult logistics and related high transport costs, and problems found in other parts of the Philippines such as inadequate transparency and accountable governance and education systems.
- The magnitude of absolute spending, as shown by the NSCB data, was small, so it could be possible that its impact was also small. Raw information obtained from the NSCB, in fact, indicated that almost all of the spending were for "*land and land improvements*," which presumably involved maintenance and improvement of local roads and related projects (the NSCB could not say for sure what they were because it does not have a counterpart office at the ARMM and simply relies on the ARMM Commission on Audit data), rather than new major infrastructure projects. ARMM

informants confirmed that there were no major projects in the region. Hence, it is possible that the norm of 0.4% growth in per capita GRDP for every 1% infrastructure spending to GRDP may apply only to large regions or national level data, but not necessarily to small regions like the ARMM where a small amount of spending gets “*exaggerated*” by the small size of the regions’ economies.

- Donor assistance focused more on social infrastructure like school buildings (the Special Zone of Peace and Development (SZOPAD) Fund built 90 Madrasah schools), community centers and mosques. These have no direct, immediate impact on the GRDP, but are nonetheless necessary investments given that the immediate priority in the region, it seems, is to improve basic education and the quality of life of the people.
- Interviews revealed a relatively high incidence of public works projects that were not completed or were delayed. For example, the Malitubog-Maridagao (Mal-Mar) irrigation project took almost a decade to finish. The volatile peace and order conditions, despite the peace pact, were the reason cited, although some interviewees also mentioned possible misuse of funds. The NSCB data on public construction probably captures part of the misuse – the data as reported in the GRDP accounts, which were based on audited figures, appears to post higher public investment outlays than what ARMM observers believed to have been spent on ARMM projects.

Table 1-3 lists the projects implemented in the ARMM, as reported by the ARMM Regional Planning and Development Office (RPDO). It must be explained, however, that most of these projects covered not just the ARMM. Hence, only a portion of the amount spent on these projects went to the region.

**Figure 1-5. PUBLIC CONSTRUCTION AS % OF GRDP**



Source: National Statistical Coordination Board (NSCB)

**Table 1-3. DONOR PROJECTS IMPLEMENTED IN THE ARMM  
(as of March 2003)**

<b>Project</b>	<b>Description</b>	<b>Amount (in million pesos)</b>	<b>Status</b>
SZOPAD Social Fund (World Bank, OPEC, JSDF: 1999-2002)	SZOPAD areas, i.e., those affected by the war between the Government of the Philippines (GOP) and MNLF forces	1,145	Implemented 590 projects. OPEC portion for completion in June 2003
Comprehensive and Integrated Delivery of Social Services (CIDSS) (AusAid: 1999-2002)	Anti-poverty program addressing the minimum basic needs of disadvantaged families in 382 barangays in 4 ARMM provinces	26	For completion in June 2003
Fifth Country Programme for Children (UNICEF: 1999-2004)	Strengthening local government capability to carry out the UN Convention on the Rights of the Child in 3 ARMM provinces	150	Work plan for the provinces of Maguindanao and Sulu approved
UN Multi-Donor Programme 3 (2001- 2004)	Provision of basic services, livelihood, capability and confidence building through local gov't units (LGUs)	N.A.	In progress
Agrarian Reform Communities Project (ARCP) (ADB: 1999- 2005)	Infrastructure and development support services to ARCs – rural infra, land survey & titling, project mgt. & capacity building	148	Slightly delayed but catching up. 20 ARCs assisted; 17 trainings conducted
Support to Agrarian Reform in Central Mindanao (STAR-CM) (EU: 2002-2007)	Institutional strengthening, support infra, agri productivity, enterprise dev't, access to rural finance, project mgt. & administration. The program covers 4 provinces but only 1 in the ARMM – Lanao del Sur	886 (Total project cost)	In progress – funded selected Lanao del Sur municipalities (P5 million released so far)
Growth with Equity in Mindanao (GEM) (USAID)	Mindanao-wide assistance to farmers, cooperatives, producers associations, SMEs and prospective investors	400	In progress – now on its 2 <sup>nd</sup> phase.
Local Government Support Program (LGSP) (CIDA: 1999- 2004)	Capacity building for LGUs (22 municipalities) and the ARMM government	90	In progress
Comprehensive (Peace) Bridge Project (UK: 1999- 2002)	Construction of 163 bridges	4,300	Completed in 2002.
Malitubog-Maridagao (Mal-Mar) Irrigation Project (JBIC: 1995- 2003)	Irrigation and drainage facilities covering 3,645 hectares in Maguindanao (2 municipalities) and North Cotabato	841	68% completed

*Source: ARMM Regional Planning and Development Office (RPDO)*

## **1.4 Initiatives to enhance the investment climate in Mindanao**

Most donor activities and government actions to support peace and development, indirectly were supportive of improving the investment climate, but three donor programs or activities were directly focused on increasing investment.

### **1.4.1 The FIAS plan of action**

A number of activities have been undertaken since 1998 to stimulate private investments in the ARMM and in Mindanao. The Foreign Investment Advisory Service (FIAS, July 1998) recommended a shift in emphasis from developing complicated and often confusing incentive packages to investor servicing and facilitation, easing of business entry rules, and improving the operating environment. The FIAS noted that investors do not care much about incentives, especially if there are no significant savings in obtaining them. What is more important is that rules should facilitate, and not constrict, investments.

The FIAS Report also suggested only one investment promotion unit (IPU) in each locality, whose function is to promote and facilitate investments, and national agencies like the BOI and the Department of Trade and Industry (DTI) consider providing technical assistance to the IPUs. The need for a coordinating organization at the regional level was mentioned, ensuring a unified and consistent region-wide investment strategy, as well as taking on the role of image building, policy assessment and advocacy, and networking. Moreover, the FIAS Report recommended that the ARMM government actively exercise its power of formulating laws and policies that would advance the economic development of the region, including the grant of fiscal, and more importantly non-fiscal (e.g., attractive approval and start-up processes) incentives.

The FIAS Report, however, was just a study with no follow-up activity.

### **1.4.2 The GEM Program**

The objective of the GEM Program was to help bring about peace and accelerate economic growth in Mindanao, while ensuring that the benefits were widely distributed. GEM helped more than 56,000 farmers double their incomes by producing higher value crops, adopting improved technologies, and selling crops to new and more profitable markets. In addition, GEM helped improve economic opportunities for communities in conflict-affected areas by helping people in those communities start new enterprises. Through its “Livelihood Enhancement and Peace” (LEAP) Program, GEM worked closely with the MNLF to assist 13,000 former combatants and their families initiate commercial-level production of hybrid corn, rice and seaweed.

GEM helped investors and producers carry out 343 projects Mindanao-wide valued at US\$441 million. These investments generated an estimated 77,000 jobs. GEM also assisted national government agencies, local government units (LGUs) and donors to identify and implement 151 infrastructure projects (post-harvest facilities, roads, air and sea transport) valued at US\$145 million. As part of these projects, 160 private investments or transactions and 140 rural infrastructure projects were assisted by GEM in conflict-affected communities.

GEM worked with and strengthened 26 Mindanao business support organizations (BSOs) representing over 80,000 firms, workers, farmers, and fisherfolk working in sectors important to the Mindanao economy. These BSOs included eight important new producer associations created with GEM assistance. In conflict-affected areas, GEM helped create four new BSOs (including an ARMM Business Council) and revitalize five existing chambers. All of these organizations and chambers have a substantial membership of Muslim-owned businesses.

GEM supported the Mindanao Business Council (MBC), other business organizations and the Mindanao Economic Development Council (MEDCo) in their successful efforts to increase the share of the national infrastructure budget for Mindanao from the 11% average in the decades before GEM to 27% in 2002. Significant progress was also made in assuring the sustainability of the fishing industry and the resource upon which the industry depends, and on laying the groundwork for ongoing efforts to reduce the cost of shipping, and promoting transparency and accountable governance.

While these results are impressive, there was one important activity in GEM intended to bring large-scale transformational investment into conflict-affected areas that was not completely successful. A close look at this activity can provide insights into the problems of bringing large investment which is greatly needed into the ARMM.

This component of GEM was specifically designed to fast-track large-scale investment in the war-torn areas in Mindanao through a three-pronged strategy:

- Trade-related investment promotion – developing reliable, large volume supplies of raw materials (mostly agricultural commodities) as a means of attracting investment in processing facilities.
- Establishment of eight “*anchor or flagship projects*” – sizeable investments (US\$5 million to US\$50 million) based on a particular area’s natural resource strengths, with a total of US\$100 million to be made by the end of the program .
- Region-specific initiatives for trade and investment that build on the individual strengths of each area – this approach also intended to address development constraints within the conflict-affected areas in Mindanao (CAAM); hence, certain areas were identified for processing and port operations (e.g., Polloc Port, Cotabato City, and Zamboanga City); for travel and tourism, seaweed and rubber processing (Sulu Archipelago); and, for production centers for agriculture and agricultural products (Maguindanao, Lanao del Sur).

The successful investments and transactions accomplished in ARMM were in telecommunications (Jolo, Sulu and Bongao, Tawi Tawi), aquaculture development (Buluan, Maguindanao), air linkage (Zamboanga-Tawi Tawi), small and medium scale plantation development in Maguindanao and Basilan, and a seaweed processing plant in Zamboanga serving seaweed farmers in the Sulu Archipelago. Nine major investments (over US\$150 million of investment) that GEM had developed in ARMM with proponents, financing arranged, etc., however, failed to “*take-off*”. These included solar powered water systems, utility line maintenance, agricultural development, agricultural services, tung oil production and processing, power generation, pulp and paper, fiber board and a

furfural investment. The reason stated by proponents for these projects not proceeding and by GEM for failing to fully reach the “*flagship investment*” targets was the poor investment environment caused primarily but not solely by the deterioration of peace and order conditions (war with the Moro Islamic Liberation Front (MILF) in 2000 and highly publicized kidnapping incidents by the Abu Sayaff in 2000 thru 2002).

Nonetheless, valuable lessons were learned from the GEM enterprise development experience in ARMM. These include the need to be catalytic, flexible, and look for trade and investment “*targets of opportunity*,” focus on private-sector led development and on “*deals*” or transactions; and focus on key economic sectors, their supply and marketing chain, and competitiveness. It is equally important to pursue market-led agribusiness development and investment acquisition; link small businesses and farmers to bigger firms; mount an effective communications program; recognize the importance of good proponents and forge partnerships with them; and be aware of investor versus entrepreneur distinctions. The experience also led to the realization that commercial trading requires large volumes; the perception of peace and order becomes the reality; physical infrastructure, labor and management skills are important, as are effective legal environment and good local governance.

To bring about policy change to improve the investment environment, having a good principal (a “*champion*”) is important, and having good counterpart institutions is equally critical. When working with small farmer organizations in ARMM, there is a need for flexibility, adequate participation of the stakeholders, addressing beneficiaries’ needs directly, and adopting a simple approach that generates quick results. Assistance needs to have a finite duration, with the beneficiaries eventually graduating. The support provided, such as equipment and facilities, have to be directed only to well organized groups with good leadership. Finally, business enterprise programs should be pursued in partnership with donors and firms. These lessons can serve as a guide to future efforts to promote business and investments in the ARMM.

### **1.4.3 The 1st ARMM Business Congress**

In August 2002, the First ARMM Business Congress or ABC (an activity sponsored by the ARMM Business Council and GEM) was conducted as a show of support to the new ARMM political leadership and as a venue for cultivating collaborative efforts towards the region’s development between the ARMM government and the local business community. Past initiatives by GEM to strengthen BSOs, for example, had organized ARMM businessmen to play a more active role in policy advocacy, supporting the regional government in the challenge of creating an environment conducive to business in the region. The Congress also highlighted what had been achieved in this area so far, and generated a number of business-related issues and recommendations on how to address these issues (see *Appendix B*).

While the ARMM businessmen articulated mostly concerns that were local or were no different from those in other areas of the country, a number of points that came out were of particular interest:

- The failure of the ARMM government, particularly its legislature, to take advantage of its grant of autonomy to pass laws and regulations that could help improve business conditions in the region. The slow action on the Regional Economic Zone Authority (REZA) and a few other bills highlighted this weakness – finally, the REZA bill was



signed into law in August 2003, or one year after the first ABC appealed for its passage.

- The tendency of local governments to overly regulate and seek rents from business, rather than facilitate business entry and growth – the same concern FIAS pointed out in 1998, or four years earlier.
- The need to improve the technical, management and entrepreneurial capacity of most local businessmen. Their limited awareness of the importance of business development services (BDS) – e.g., market intelligence, marketing and product design, use of information technology, etc. – as issues reflected their low level of enterprise development. The reference to small infrastructure (e.g., farm-to-market roads, irrigation, etc.) as constraints indicated the mostly “livelihood” nature of the activities in the region. The ARMM businessmen must also be developed for a more active role in providing policy inputs to the ARMM.
- The unique situation, but with nearly similar concerns, of the island provinces (Sulu, Basilan, Tawi Tawi) – security, power and phones, access to markets (i.e., ports and airports), post-harvest facilities (e.g., cold storage plants), and more support from the national and regional governments – stressed the need for special development programs in these areas. Being geographically isolated, these provinces suffer both from lack of economic opportunities and high cost of basic needs (including water and electricity). Unless outside help comes, there is a low chance of reducing poverty in these provinces.

## 2.0 LESSONS FROM EXISTING INVESTMENTS IN THE ARMM

Major private investments in the ARMM had been few and far between, but the few business successes indicate that money can be made in the region. These successful business cases also impart some lessons on how to operate in the ARMM and can serve as models for potential business projects in the area.

### 2.1 Assessment of the investment situation

ARMM generated interest among investors in the second half of the 1990's, as after the peace agreement was signed with the MNLF a number of trade missions from neighboring and other Muslim countries came to Mindanao – and included ARMM in their itinerary – in search of business opportunities. Memoranda of Understanding (MOUs) were signed with local businessmen. According to an interviewee, one ARMM businessman was reported to have signed five MOUs with foreign investors. But most of the businesses that materialized were in other parts of Mindanao, not ARMM.

Interviews revealed some reasons for the failure of investments to take off in the ARMM. Most of these MOU's were “forced,” as the success of the missions were gauged on the number of MOU's signed rather than on the actual investments realized. In fact, some of the people who visited the region were not serious investors. ARMM businessmen were also technically and financially unprepared for the demands of the proposed joint ventures.

Another source said business counterparts did not know how to prepare feasibility studies or sound business proposals; project costs were overvalued and tilted in favor of manpower, and/or initial work such as acquisition/consolidation of land, obtaining the necessary permits, etc. Some looked at foreign direct investments (FDIs) as “dole-outs,” slow to recognize that they also need to put up counterpart equity and share in the risk.

In essence, the local ARMM community was generally seekers of projects, not entrepreneurs. Most investment plans were never pursued seriously. The MOUs, mostly driven by proponents especially from Malaysia and Indonesia, were not useful – and not a good gauge of favorable business conditions in the region – as these were only meant to show that some “results” were achieved during the visits to Mindanao, particularly the ARMM.

As a list provided by the ARMM Regional Board of Investments (R-BOI) indicated, there were only 15 BOI-registered investments in the region – mostly agriculture-based and public utility projects – worth a combined P7.6 billion over the past 10 years or so (*Table 2-1*). Of the 15, only nine are operating, including one that was registered in the ARMM but subsequently operated outside of the ARMM.

Nonetheless, there were a handful of relatively major investments in the ARMM. Exceptions to the general rule, they show it can be done, and provide models on how to do it. They also suggest that the region can potentially host viable businesses that can have positive effects within the vicinity where they operate. Lessons can be learned from these few successes.

**TABLE 2-1. REGIONAL BOARD OF INVESTMENTS (R-BOI )  
REGISTERED INVESTMENTS**

<b>PROJECT</b>	<b>PROPONENT</b>	<b>LOCATION</b>	<b>COST</b> <i>(million pesos)</i>	<b>STATUS</b> <i>(as of May 2003)</i>
<b>Operating:</b>				
Cavendish banana production for export	La Frutera, Inc.	Datu Paglas, Maguindanao	526	Exporting to the Middle East and Japan
Public utility – passenger bus service	Grand Transport Corp.	Maguindanao	311	Diverted route to Sultan Kudarat-Tacurong-Davao City due to competition
Public utility – passenger bus service	Weena Express, Inc.	Maguindanao	234	Main office is in Davao City, not Maguindanao
Cavendish banana production for export	Alip River Dev't & Export Corp.	Buluan, Maguindanao	193	Exporting to the Middle East; plans to expand
Cassava starch manufacturing	Itil Plantation	Malabang, Lanao del Sur	173	Barely operating; affected by peace & order and management problems
Coconut oil and copra meat production	BJ Coco Oil Mill	Indanan, Sulu	147	Operating, installed its own power generator
Expansion/modernization of garments manufacturing facility	Mindanao Textile Corp. (Mintex)	Datu Odin Sinsuat, Maguindanao	111	Now using state-of-the-art equipment
Builder and woodworks production	Minrico Lumber Co., Inc.	Sultan Kudarat, Maguindanao	46	New products are being exported
Banana chips manufacturing	Moro Gulf Food Ind'l., Inc.	Sultan Kudarat, Maguindanao	8	Operating
<b>Not operating:</b>				
Palm oil plantation and refinery	Tabung Haji Janoub Phils., Inc.	Tagoloan II, Lanao del Sur	5,170	Not yet implemented due to problems on land ownership
Public utility – passenger bus service	Tomawis Super Transport	Lanao del Sur	309	Aborted the project due to competition
Marine fishing, canning & manufacturing	Vichua Development, Inc.	Parang, Maguindanao	189	Not implemented due to problems with capital equipment supplier
Crocodile skin, canned & frozen meat production	Cohae Development Corp.	Sultan Kudarat, Maguindanao	150	Problem with Korean joint venture partner prevented implementation of project
Expansion of corn starch manufacturing	Philippine Trade Corp.	Sultan Kudarat, Maguindanao	30	Did not proceed with the expansion
Coco fiber/coco coir dust production	Mindanao Coco Coir Ind'l., Inc.	Sultan Kudarat, Maguindanao	30	Marketing arrangement failed; looking for a business partner

## **2.2 Some successful investments in the ARMM**

### **2.2.1 *La Frutera, Inc.***

The company, a joint venture between the former Mayor (Ibrahim “Toto” Paglas) of Datu Paglas (51% equity) and a Saudi venture capitalist (49% equity), was established in 1996 when the former consolidated 1,000 hectares of land owned by his clan and bought out from foreclosed properties of a bank. The land became a banana plantation.

With the intervention of the R-BOI, the plantation was transformed into an economic zone, enjoying a 10-year tax holiday and other perks. The ARMM Regional Legislative Assembly (RLA) also passed a law allowing the retention of hectareage for a banana plantation well above the limit set by the national law at that time. It was only in 2001 that the national government lifted the limit on banana plantation area.

Apart from financing, the Saudi partner also provided the technology (Israeli) and marketing support. Israeli experts went to the Muslim town to transfer the technology and to train key personnel. La Frutera also hired professionals (including a top executive from a major local group of companies) to run the business.

The produce is now being sold in the Middle East, specifically Saudi Arabia, and Japan. La Frutera reportedly generated P1.5 billion in export revenues in 2002, a little over double its sales in 2001.

It was not an easy task. Datu Paglas Municipality used to be a “*no man’s land*,” creating initial difficulties (and losses) for the project. The local proponent’s political opponents accused him of land-grabbing. But in a remarkable show of entrepreneurship for a politician, the business surmounted all the adversities. It probably helped that Toto Paglas is a nephew of former MILF chief Hashim Salamat, so the MILF left the banana plantation alone. Besides, the company employs former MILF combatants and sympathizers among its 2,000 workers. Datu Paglas is now a thriving community, with peace and order further reinforced by the economic success of La Frutera. It has shown that one can make money in the ARMM. Large companies, foreign or local, therefore, can potentially operate in the region to produce commodities that can be sold to the world market.

The company is now in the process of expansion. This time, it is targeting the lucrative China market.

### **2.2.2 *BJ Coco Oil Mill, Inc.***

BJ Coco Oil Mill was established in Indanan, Sulu in 1996, at about the same time La Frutera started operations. The owner (100% equity) of the coconut oil mill, Benjamin Loong, a former ARMM Vice Governor, and La Frutera’s Toto Paglas are said to be business associates, engaged in joint selling. Mr. Paglas ran for Governor with Mr. Loong as his Vice Governor during the recent ARMM elections. Both of them lost.

BJ Coco Oil Mill is a producer of crude coconut oil and copra meat, with capacities of 28,000 tons per year and 15,000 tons per year, respectively. It sources its raw materials from Sulu and the neighboring island provinces of Basilan and Tawi Tawi. Its products are sold mainly to San Miguel Corp., shipping them from the BJ's private port in Sulu to Iligan City.

The R-BOI granted the company an extended 10-year tax holiday, instead of the usual four, and other unspecified non-fiscal incentives. In providing the generous support, R-BOI agreed that it was necessary due to the Asian financial crisis, the local conflict, and the need for the company to invest in its own power plant (it did acquire its own generator set). Technically, the power generator could not be imported duty-free, but R-BOI found a “*loophole*” as the Agriculture and Fisheries Modernization Act (AFMA) allows duty-free importation of capital equipment for agricultural activities.

Despite the prevailing security problems in Sulu – probably among the worst in Mindanao – the company continues to operate. Mr. Loong, however, had to get a written guarantee from the military establishment to protect the project site – physically, for two years (one army company was deployed to the area) – just to be able to get a loan from the Development Bank of the Philippines (DBP) to start the project. His family is also a prominent political clan in the province, with their own “*security force*,” that helped deter lawless elements in the project site.

Mr. Loong is now diversifying into a 500-hectare coffee plantation in Parang, Sulu. Nestle Philippines is the buyer of the beans.

### **2.2.3 Minrico Lumber Enterprises, Inc.**

Minrico is the oldest major business in the ARMM. With a plant located in Sultan Kudarat, Maguindanao (just outside Cotabato City), it was established in 1924. It produces plywood (100,000 sheets per month) and veneer for the local market. It started producing wood products (mouldings, finger joints, laminated board, cabinet and housing components, etc.) for the Japanese market lately, for which it was granted incentives by the R-BOI.

Conservatism, according to its owner, enabled it to survive all these years. But its familiarity with the dynamics of the region and the whole island of Mindanao, having been long in the business, and knowing the right people are probably the more important success factors. Dealing with the local governments is a problem that can be handled. Security is not an issue, as the company has MILF members and former Muslim rebels as its raw material suppliers and it is near Cotabato City, which has substantial army forces.

The company's problems are more mundane: there is an oversupply of plywood and competing products in the market due to the weak economy that bars it from expanding. There are also technical problems, such as how to reduce the moisture content of the material (Gmellina wood) for its export products.

Nonetheless, Minrico is diversifying into handicrafts/household furnishings using scrap wood and waste from its main production line.

#### **2.2.4 Mindanao Textile Corp. (Mintex)**

Mintex used to be a government-owned garments factory in Maguindanao. It was privatized in the late 1980's and was acquired by a Taiwanese group, which has the majority ownership (69%). The group also has factories in Cavite and in China.

The investors acquired the Maguindanao facility presumably for its export quota with the U.S. market. It produces garments for the U.S. brand "Bugle Boy." Moreover, labor costs are low in the province – the minimum wage is presently only about P130/day, half of Metro Manila's – and there is no labor union.

Opinions are mixed on whether Mintex is actually making money. Some say it is not as it is importing the raw materials from the Taiwanese group's factory in China, and the costs of transporting these raw materials to Mindanao then shipping the finished products to the U.S. are high. Others argued it is (although the profits are probably not as high as in China), otherwise the company would not initiate an expansion program.

Mintex's expansion/modernization program, which started in 2001 and is in the process of completion, involves the acquisition of new equipment (cutting machine, high-tech iron press, etc.) and the installation of more advanced information technology systems.

### **2.3 Lessons learned**

The experience of a few (unfortunately very few) successful major businesses in the ARMM imparts some common elements for succeeding in the region's business environment. Among these are the following:

- To date, it seems to take strong leadership with extensive political (the capacity to influence business policy-making in the ARMM) as well as physical (access to land, capital, etc.) resources to successfully run a business in ARMM. This is exemplified by the La Frutera and BJ Coco Oil Mill experiences. In the short-term, some prominent leaders in the region can potentially become entrepreneurs or "*captains of industries*" and in the medium term the enabling investment environment must be improved to level the playing field so less well-connected people can create and expand businesses.
- The regional government plays an important role in encouraging investments, as in the relaxation of the limits on the hectarage of banana plantations to accommodate La Frutera. Autonomy probably provides many other options to ARMM in facilitating investment that have not been considered yet. The passage of the REZA Law is a step towards this direction.
- Outside investors can tie up with local entrepreneurs, either through joint venture or marketing arrangements. The latter know the key personalities and how to get things done in the region, and would be able to spread the benefits of the business by involving people in security risk areas as subcontractors, suppliers, etc.

- A large business can operate profitably in the ARMM and help contain the peace and order and security problems, as happened in Datu Paglas. Also, it is possible for businessmen (such as Mintex) to operate with minimal threats to security in certain areas as people in the ARMM, including the MILF, are sensible enough to perceive the contribution of the business to the region's economy. Deployment of troops in or near project sites (as in the case of BJ Coco Oil Mill) is another option.
- The more serious problems facing the existing major firms in the ARMM appear to be technical (e.g., improving product quality), economic (weak market conditions, the need to be competitive) and lack of infrastructure in nature, rather than peace and order, which they have been able to handle. That said, an improvement in the peace and order situation in ARMM, and equally important the perception of peace and order, is clearly critical to rapidly expanding broad-based investment in ARMM.

Clearly, politics and business are intertwined in the ARMM – the political elites are also the business elites – but, interestingly, this relationship also exists in varying degrees in most Asian societies. In Thailand, for example, one of the country's most successful businessmen is also its Prime Minister; in South Korea, the Chaebols have strong political influence. The most expeditious way to spur business in the ARMM, therefore, is to tap these elites to develop successful enterprises and, eventually, to “*champion*” the interests of small, non-elite businessmen through subcontracting and supply arrangements.

The challenge is to make business development more broad-based for small enterprises to increase their share and contribute to the region's economy. But, as the ARMM Department of Trade and Industry (R-DTI) observes, one major weakness of these establishments is that they are mostly informally organized. Hence, they lack legal personality, precluding their access to formal credit and making it difficult to link them up with large business establishments. Moreover, these enterprises have low productivity; lack the necessary skills on marketing, quality control, and product design, etc.; and exist on a hand-to-mouth basis, limiting their prospects for expansion and growth. They would need basic assistance – e.g., business registration and accreditation, record keeping and accounting, financial analysis, marketing, productivity improvement, etc. – to enable their businesses to grow. The creation of an enabling environment, one that encourages rather than deters business activity regardless of scale, through appropriate policies is also important.

### 3.0 STRATEGIES FOR IMPROVING THE ARMM BUSINESS AND INVESTMENT CLIMATE

Many factors conspire to deter investments in the ARMM. Some of them are inter-related, such as the inability of the leadership at all levels of government to effectively address poverty that, in turn, contributes to the peace and order problems in the area. Identifying the deterrents to investment is, in fact, the easy part, as the reports reviewed and the interviews conducted indicated. The hard part is proposing workable solutions, which are few, and fewer still are those that promise clear and immediate positive impact on ARMM's investment climate in the immediate term. Nonetheless, a number of suggestions has been put forth that, it is believed, can lay the basis for improving the business and investment environment in the ARMM over the years.

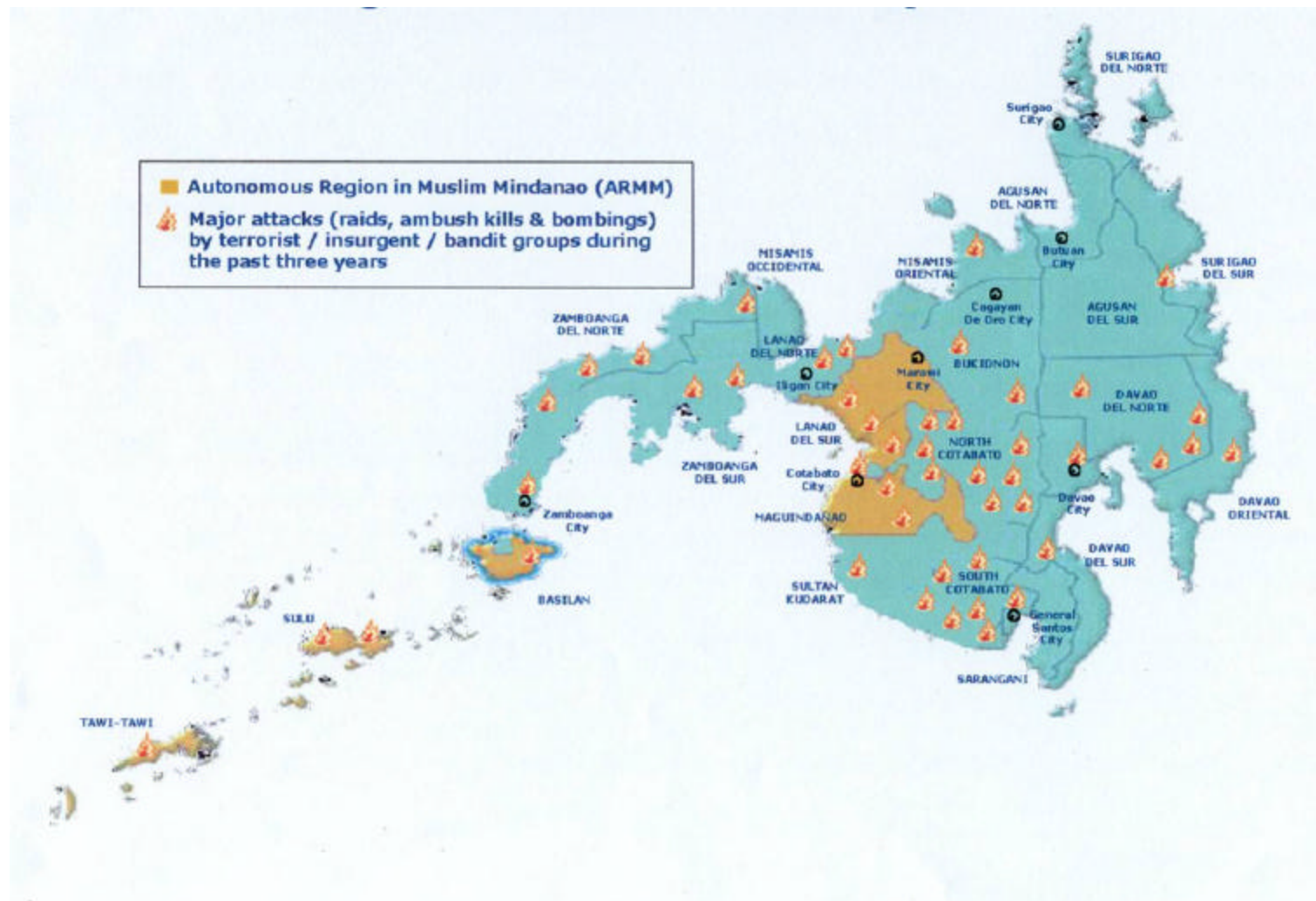
#### 3.1 Constraints to business in the ARMM

The reports reviewed and the interviews conducted revealed a number of inter-related factors that constrain the expansion of local business enterprises and the entry of large-scale investments into the ARMM. The more crucial deterrents are the following:

- Peace and order – To many outside investors, including foreigners, the ARMM is not a safe place to locate a business. According to BOI and GEM data and interviews, a significant number of large proposed investments in the ARMM failed to materialize due to security concerns. ARMM officials and businessmen explained that it is more of a perception problem, with only about 20% of the ARMM area (see *Figure 3-1*) affected. However, businessmen in Zamboanga City and other non-ARMM areas said peace and order is a real problem. Some of the businessmen who used to have operations in the ARMM recalled that they were victims of crime in the area. Another concern is that even though a war may not be within a project area, it could block a major highway through which produce or materials must pass. The ARMM business leaders were quick to admit that countering the bad publicity alone will get them nowhere.
- Weaknesses of the ARMM business sector – One suggestion that emerged during the interviews was to first tap the people already in the ARMM to invest or expand, if outsiders are hesitant to come in at this time. More local successes could encourage others to revisit business prospects in the region. But, as discussed in *Section 2.1*, the ARMM business sector still needs to improve its capacity in certain aspects of business – finance, accounting, marketing, volume and quality of output, etc. Most of the activities in the region are “livelihood”-related and trading, rather than agribusiness that is its natural strength. The ARMM government also needs to provide policy support and financial incentives to business. This can only happen with closer consultations between the government and business to be able to identify beneficial policies and interventions to business.



Figure 3–1. “MINDANAO HOTSPOTS”



- Policy-making and governance issues – Most interviewees agreed that ARMM was granted significant autonomy, but is not exercising it fully. The result is the absence of an adequate supportive policy and legal framework to attract investments in the region. In essence, ARMM is missing the opportunity for formulating rules that are more business-friendly than national laws provide. The recent passage of the Regional Economic Zone Act (REZA) bill augurs well for the investment prospects of the region as it sends the signal that ARMM is serious about attracting more businesses into the area. However, more needs to be done as the REZA bill itself cannot be expected to fully address the need to enhance the business environment in the region. At the local government level, people tend to see the government as a major employer and an income-generating center, rather than a promoter of basic frontline services and a catalyst for change. It appears that local governments need to be more business-oriented in their approach, facilitating business by easing rules on business entry and renewal rather than overly regulating it.
  
- Inadequate infrastructure – There is a very real need to construct vital infrastructure facilities if local businesses are to expand and improve their physical access to markets. These facilities are also needed to attract processing activities into the region. The island provinces of the ARMM, for example, have the potential to produce more agricultural and marine products, and host processing plants, but are constrained by doing so because of the lack of larger and more efficient ports, inadequate water and power supply and the absence of post-harvest facilities. Larger volume of fresh commodities cannot be shipped as inadequate cold storage facilities means spoilage of output that are not immediately sold. Nor can they be efficiently and competitively transported to market centers without ports that can accommodate larger vessels at lower port charges. Processing plants cannot be feasibly invested in without efficient water and power supply services. Very few major infrastructure projects have been implemented in the ARMM, despite the existence of a number of foreign-assisted projects for ARMM in the pipeline. Most of these projects have not moved since the commitments were made by international donors to fund them three to four years ago (*Table 3-1*). The national government appears to be the bottleneck, as it continues to face difficulties in raising the needed counterpart funds. In the process of setting the priority ranking for implementation resulting from the budgetary constraints, proposed projects in the ARMM often come out near the bottom.
  
- Poor state of education – The ARMM has the lowest educational achievement in the country. It ranks at the bottom in literacy, enrolment in elementary and secondary education, scholastic performance of students and survival rates (*Table 3-2*). This could be one reason why the region has the highest incidence of poverty – all of the island provinces lead the 10 poorest provinces in the country. Lack of education limits the ability of a significant number of the ARMM population to find worthwhile economic activities. The situation is exacerbated by the fact that in the ARMM, per capita educational spending per pupil by the national government is only 68% of the already low national average of US\$138 per pupil, and, for example, just 1/6 of the level in Thailand. With the requisite skills and educational attainment lacking, the ARMM is handicapped in its fight to attract investments.
  
- Limited access to formal credit – Small and medium enterprises (SMEs) in the ARMM face a formidable challenge: lack of adequate collateral, as most of the land

have unclear title or have no title at all. Even if the land has a title, banks hesitate to accept it if it is vulnerable to security risks. The only property that can be used as collateral is urban commercial land or land in prime areas. But the banks extend loans of only up to 50% of the value of lands acceptable as collateral. Another issue is that probably not enough banks and bank branches operate in the ARMM. This not only limits the option of SMEs to tap formal credit, but also forces a significant number of transactions to be conducted in cash. The latter creates opportunity for criminal activities (e.g., theft, armed robbery, etc.), resulting in day-to-day commerce being kept to a minimum in an effort by local businessmen to reduce this risk. Moreover, only a few groups can be considered creditworthy as most economic activities are performed by farmers, fisherfolks and micro-enterprises with high incidence of unpaid debts and are mostly informally organized.

**Table 3-1. PLANNED INFRASTRUCTURE PROJECTS IN THE ARMM**

<b>Project</b>	<b>Description</b>	<b>Donor</b>	<b>Amount</b> (million pesos)
ARMM Social Fund	13 medium-sized projects (port improvement, rural electrification systems, etc.) plus a <b>large</b> number of small projects similar to the SZOPAD Social Fund.	World Bank, JBIC, CIDA	1,680 (WB), plus possible 1,193 from JBIC
Lake Lanao Circumferential Road	111 kilometers of asphalt roads to be overlayed with concrete	Saudi Fund for Development	N.A.
Basilan Circumferential Road	Concreting of 86 kilometers of existing road and reconstruction of 7 bridges	Saudi Fund for Development	756
Cotabato East Diversion Road	Construction of 12 kilometers of paved roads 4 bridges	Saudi Fund for Development	667
Mindanao Second Roads Improvement Project	Construction/rehabilitation of 33 kilometers of Sultan Gumander-Malabang Road	KFA/DPWH	414
Cotabato Junction Awang-Upi-Lebak-Kalamansig Road	Improvement of 105 kilometers of road and construction of 5 bridges	JBIC	3,200
Third Airport Development	Upgrading of the Tawi Tawi airport to ICAO standard (delayed by land acquisition and resettlement problems)	ADB	302

*Source: ARMM Regional Planning and Development Office*

**Table 3-2. SELECTED EDUCATION INDICATORS**

<i>Indicators</i>	<i>Year</i>	<i>Philippines</i>	<i>Mindanao</i>	<i>ARMM</i>
Functional literacy (%)	1994	83.8	75.0	61.2
Elementary participation rate (%)	SY 2000-01	96.4	93.3	93.3
Secondary participation rate (%)	SY 2000-01	72.3	53.5	39.2
NEAT scores (%)	2000	51.7	54.3	49.4
NSAT scores (%)	2000	53.4	52.5	51.2
Cohort survival rate, elementary	SY 2001-02	67.1	54.5	34.0
Cohort survival rate, secondary	SY 2001-02	73.2	68.4	71.1
Cohort survival rate – elementary through secondary	SY 2001-02	49.9	36.2	13.4
Completion rate, elementary (%)	SY 2001-02	66.3	54.4	34.5
Completion rate, secondary (%)	SY 2001-02	71.0	66.4	59.9
Completion rate, elementary through secondary (%)	SY 2001-02	48.4	34.6	11.3

*Sources: Medina, Myra T. for Garilao and Associates, "Peace and Development in Mindanao"; Philippine Statistical Yearbook 2001*

#### **Box A.**

#### **This is a true story.**

A Muslim child born of a poor farmer couple wondered why his Christian playmates were not around to play in the mornings. To solve the mystery, he tracked their whereabouts during the period that they were gone. He discovered that they were in school and, for the first time, realized that schools existed. Without the knowledge of his parents, he pleaded to the school authorities to take him in. He financed his educational expenses by selling whatever farm produce he could gather. He excelled in both elementary and high school, but had to drop out of the latter because he couldn't afford the rising cost of schooling and his parents were unable to help. Frustrated, he joined the MNLF at the age of 14 because it promised a struggle for a better life for Muslims. A top military officer sympathized with the boy's predicament, took him out of the MNLF and sponsored his studies until he finished college. He eventually became a three-time governor and a congressman of Sulu.

### **3.2 A multi-stakeholder approach**

Foreign donor assistance has been mentioned frequently as triggers for carrying out the foregoing strategies and recommendations. This highlights the importance – at this point – of financial and technical assistance grants to get the momentum going, given that ARMM is the poorest region in the country with little means of implementing the proposed changes, while the national government is seriously facing budget constraints that lead to funds being spread out too thinly across the nation. Moreover, foreign donors have already made these commitments, and the idea is principally to direct part of the commitments towards measures that are believed to generate greater impact on the business and investment climate in the ARMM.

It should be stressed, however, that improving the business and economic conditions in the region requires the pulling together of efforts of all the key stakeholders, and not just the sole task of the foreign donor community.

The national government must give to ARMM its due share of the national budget, which should be the average allocation per region of specific expenditure items (education spending, for example, should be US\$138 per pupil in the ARMM, not US\$94), even if this means lowering the allocation for the other regions. The national government must also implement the infrastructure projects it promised to do so in the region. The ARMM regional government must work to ensure that this is done by the national government. It is also the responsibility of the ARMM government to put in place policies beneficial to the region within the powers granted to it under the Organic Act, and to actively explore feasible ways of increasing its own revenues.

The private sector, particularly the business concerns operating in Mindanao, should play an active role in assisting the ARMM government identify the beneficial policies and in closely monitoring the utilization of program and project funds. It should also support small businessmen, farmers' groups, etc. in the ARMM towards making their operations viable and sustainable. Civil society groups can integrate their approaches and pool their resources to help maximize the impact of their socially oriented activities.

### **3.3 Strategies to address peace and order problems**

What became abundantly clear (and, anyway, is obvious) is that there must be genuine peace to attract significant levels of investment into the ARMM. In areas of conflict, banks are hesitant to put their funds at risk. Businessmen will not risk threats to their lives or attacks on their business, and they perceive this may well happen if they invest in the ARMM.

All those interviewed agreed that peace is an elusive goal, as this involves a complex of issues that encompasses poverty, past neglect, distrust, ideology, etc. The peace agreement with the MNLF was held, but hostilities resumed because the MILF and other groups did not support the agreement. There is always the risk that a deal with one group will not be accepted by another, or new groups could emerge to challenge authority.

Nonetheless, peace initiatives appear to be the only way lasting peace can be eventually achieved in the ARMM, although this will require patience and is not expected to happen overnight.

#### **3.3.1 Successfully conclude peace talks with the MILF**

The conclusion of a peace agreement with the MILF can help contain the peace and order problem. If most, if not all, of the groups within the MILF organization accept the agreement, there is a good chance of limiting the security problem to an even smaller pocket of areas, enabling crucial development and poverty-alleviation projects (including those funded by ODA) deterred by the unstable peace and order conditions to be put in place. With more development projects in place, prospects for the expansion of productive opportunities will be better, and this could result in what former President Fidel Ramos called "*the loss of will to fight*." It is crucial for the government to reach out,

not just to the MILF leadership but also to all disparate factions in it. The agreement concluded can lay the foundation for lasting peace if it has provisions that genuinely promote the aspirations not only of the MILF but also of the broader segment of the ARMM society, if the ARMM as a whole supports it, and if both the government and the MILF are willing to observe and enforce the agreement.

### **3.3.2 *A more focused military thrust towards peace-keeping in Mindanao***

The ARMM government may wish to consider consultations with the top military leadership in the formulation of a clear and clearly communicated security policy in Mindanao, particularly in the ARMM – a policy that is more oriented towards keeping the peace rather than on winning a war. Moreover, ways can be worked out for achieving a more effective conduct of military operations in the area, including soldier re-orientation programs and institutionalized system of performance evaluation to keep the officers and their men focused on their jobs. One specific suggestion is for the ARMM government to facilitate a military presence in areas considered as “*hubs of economic activity*,” especially the special economic zones.

### **3.3.3 *Welcome outside help in improving competence at peace-keeping***

Given the resource limitations of the military organization, tapping the assistance being extended by other countries could help partly overcome these limitations. The ARMM government together with potential host local communities could consider lobbying for the regular holding of the Philippine-US war exercises (“*Balikatan*”) and other training activities within the ARMM. As the Balikatan in Basilan in 2002 has shown, the exercise has resulted not only in deterring violence in the province, but has also helped re-build small infrastructure (including an airport) and unify key leaders in the province. Access to military aid to be provided by the US is being encouraged, and for the government to make sure that it is used properly.

### **3.3.4 *Strengthen ARMM law enforcement agencies***

The devolution of the local police functions to the ARMM government poses a major challenge to the ARMM at ensuring that the law enforcement agencies are professionalized and are doing a better job at deterring criminality in the region. This might require the ARMM government to initially seek outside help – i.e., technical assistance grants – particularly for an effective system of recruitment, training in the critical aspects of police work, and eventually, for the establishment of its own police academy. Foreign donor support may also be needed for vital facilities, such as crime laboratories, vehicles and communications equipment, and possibly networking with major police organizations like Interpol especially in terrorist-related crimes.

## **3.4 *Strategies to strengthen the ARMM business sector***

GEM has led several business sector-oriented initiatives in the ARMM, including organizing local business organizations to participate in and guide discussions on policy changes to improve the enabling environment for business, identifying and promoting business opportunities, and facilitating investments. Given the prevailing circumstances in the ARMM, still more needs to be done to strengthen the business sector to harness the business potential within the region.

### **3.4.1 Re-orient the incentives scheme to support local businessmen**

Presently, the national fiscal investment incentives regime under the Omnibus Investment Act and the annual Investment Priorities Plan (IPP) are also the legal basis for the grant of incentives in the ARMM in the absence of ARMM's own incentives law. A new ARMM investment code including incentives is presently being reviewed in public consultations in the ARMM. The national framework, upon which the proposed ARMM bill is based, however, although providing tax holidays and other forms of incentives to investments in less developed areas like the ARMM, generally offers these incentives only to new investment projects in manufacturing, high-value industries (e.g., information technology), high technology products, infrastructure and utilities implemented under the BOT scheme, large-scale mining and export-oriented industries. Unfortunately, accelerating business growth in the ARMM in the short-term would require the expansion of business enterprises that primarily are already existing in the region. Support to agriculture and development of large plantations, activities that are barely covered by the national incentives law and have great potential in ARMM, do not enjoy tax and other incentives.

The recent passage of the REZA law has provided ARMM with a legal framework for investment incentives (*see Appendix C for a copy of the passed bill, its salient features and GEM's comments on the draft bill*), but this law applies only to investments in areas designated by the REZA as special economic zones. Investors seeking to locate outside of these zones are not covered by fiscal and other incentives under the REZA law. However, similar to the national level structure where the Philippine Economic Zone Authority (PEZA) and the Board of Investments (BOI) extend mutually exclusive incentives, the ARMM regional Board of Investments (R-BOI) has flexibility to pursue its own incentives scheme.

The R-BOI has, in the past, shown that it could act independently of the national government, such as when it allowed the duty-free importation of BJ Coco Oil Mill's power generating set and extended the company's tax holidays beyond the period allowed under the national incentives code. The R-BOI should do this more often; instead of responding on a case-to-case basis, and this would require the enactment an incentives law that the R-BOI can implement – a law that is more responsive to the activities that can be realistically carried out in the region, e.g., agribusiness, expansion of existing local industries, etc. In short, the R-BOI has more ground-level knowledge than the national BOI on what tax and other incentives it could provide that would give the region an edge in promoting investments and what activities need to be included in ARMM's IPP.

### **3.4.2 Improve ARMM LGU's delivery of services to businessmen**

There is little doubt poor governance affects the business climate and must be improved, but improving governance in the ARMM LGU's is beyond the scope of this study, as this will require massive, long-term value change, and sustained economic progress as well. If reasonable success is achieved in making the ARMM regional government more effective and efficient, similar efforts could gradually shift towards the LGU's.

Nonetheless, some initial incremental steps are suggested, at least to make the environment a bit more business-friendly.

The FIAS Report stressed the need to shift the approach from regulatory to facilitative, so this is the track that the LGU's can follow. Even though the likelihood of attracting outside investors is still remote, the LGU's can already start laying the foundation for an effective system of investor services. At least, the local business community stands to benefit, and after all, they are the ones that are more likely to invest in the ARMM at this time.

Problems of “red-tape” and governance are not unique to the ARMM. The ARMM government, LGUs and business, more than in other areas, just simply can not afford it and through their existing autonomy can and must do more to cut red-tape and improve governance than other regions.

Business-oriented agencies of the regional government – possibly the ARMM DTI, R-BOI, etc. – has an active role to play in making the orientation of LGU's more facilitative. It is suggested that the DTI take the lead in providing technical assistance, targeting a specific number of LGU's assisted each year. The ARMM Regional Planning and Development Office (RPDO) is already helping the local governments in project preparation. So it is not unreasonable to solicit the support of other agencies for the development of business-friendly services, and for the LGU's to accept this support.

As a minimum, the reforms can focus on:

- Inculcating the attitude of customer-orientedness amongst the LGU's frontline personnel,
- Setting up a basic data base and information system on the province or municipality (this does not need to be computerized, but better if it is), and
- Reviewing the current business registration and renewal processes for improvement and simplification, including the development of conspicuously displayed flowcharts to make it more transparent and easier for applicants to follow the rules and procedures.

The ARMM DTI could build upon GEM's initiatives to improve Transparent Governance at the Provincial and Municipal level with its focus on increasing the involvement of business organizations in supporting efforts to improve governance.

These efforts are being replicated at the provincial level through partnerships with Chambers of Commerce and are leading to chambers being designated as observers on provincial bids and awards committees and obtaining commitments from LGUs to reduce the number of permits (signatures of government officials) required to start a business.

At the municipal level, improving governance can be achieved through the issuance by Municipal Mayors of an Executive Order that officially designates a representative from the local business community, such as Chambers of Commerce and Industry, as a non-voting member of the Municipal Bids and Awards Committee (this is being done in Tawi-Tawi). The active participation and support of these representatives in the bids and awards committees can help ensure an efficient and transparent bidding process, hence safeguarding the interests of the Municipal Government and the business sector. The other useful measure is the streamlining of the business application and renewal



process, targeting a reduction of 50% in the current processing time. As mentioned previously, the streamlining also includes posting in strategic locations within the municipal building of a simple but readable diagram showing the steps, signatories, and fees required in applying for, or renewing, business permits. A quarterly review and assessment of the implementation of these initial activities will be necessary under a Municipal Efficient and Transparent Governance Program, and the next steps identified and initiated.

### **3.4.3 Identify and assist people and groups with potential for business growth**

The GEM program and others have identified business prospects where the ARMM's strengths lie, and the most viable short-term opportunities are in agribusiness and mariculture. There have been successes in ARMM as indicated in *Chapter 2* of the report, but they are too few. Attention should now shift to producing more Toto Paglases and Ben Loongs to harness this potential. Large corporations agree – they are willing to do business with ARMM if they can find people who can mobilize large tracts of land, have business acumen, can deal effectively with local and regional governments, and have a good credit standing.

It is suggested that the ARMM DTI form a “*search team or committee*” composed of representatives from the government, business, civil society and donors (GEM could be part of this as it also has extensive business contacts) to identify these people and groups. The initial task is to establish a set of criteria as to who would qualify. Land Bank and Development Bank of the Philippines (DBP) can help by providing information on track records or credit standing of ARMM borrowers. One focus could be on ARMM cooperatives with a long period of commendable performance and who wish to expand their operations. Once a list of potential “*entrepreneurs*” is drawn up, market-led trade and investment programs can be built around them, including a package of support to strengthen them in certain aspects where they are weak. The next step is to facilitate matching them with companies, if any, willing to provide technical, marketing and other forms of assistance.

To further encourage local businessmen to strive for growth and excellence, the search committee may also wish to consider giving annual awards to deserving ARMM enterprises. Getting sponsorships for the awards from large corporations, prominent business organizations like the foreign chambers of commerce, foreign donors and other groups can be explored. Through the involvement of sponsors, ARMM businesses would get publicity outside of the region as well as generate interest in the ARMM.

### **3.4.4 Link ARMM enterprises with large business companies**

An amplification of its “*business matching*” task, the search committee (or an organization like the ARMM Business Council (ABC) in coordination with non-government organizations (NGO's) like the Philippine Business for Social Progress) could also monitor – and develop a regularly updated list of – large companies that extend contract-growing and joint venture programs with farming communities. San Miguel Corp., for example, has entered and continues to enter into contract-growing arrangements with corn and cassava farmers in Mindanao. Del Monte almost concluded an agreement with a Maguindanao banana cooperative to develop a banana plantation and was willing to assist the cooperative raise their 60% equity. However, the

cooperative was unable to generate the amount needed for equity, when violence broke out in nearby Buliok in North Cotabato. In short, companies are not averse to doing business in the ARMM, provided their potential ARMM partners can reliably deliver the quantity and quality of goods they require. Reliability of supply appears to be the more critical factor in entering into arrangements with ARMM entities. Hence, one work that the committee (or ABC) can perform is to make interested groups within the ARMM aware of these opportunities.

Through these large agribusiness companies, models that have worked for them in dealing with, for example, contract-growers can be adopted in the ARMM. The committee can assist in facilitating this. Consultations with these companies could be held to identify and work out the kind of support needed for the adaptation of these models in the ARMM. Firms that may be persuaded to consider financing support for the expansion of small businesses and farmers, as in the case of the aborted deal between Del Monte and a Maguindanao cooperative, should be given special attention. It may be possible to discuss feasible and innovative arrangements with some companies with respect to the financing requirements for expansion, particularly of ARMM people and groups identified to have strong potential for successful business enterprise development.

Large agribusiness companies operating in Mindanao – San Miguel Corp., Nestle, Del Monte, Dole, Universal Robina, Marsman Drysdale, etc – have contract growing and/or supply arrangements with local businessmen and farmers' groups in the island. A typical contract-growing arrangement involves the company providing technical training (technology transfer and adaptation) and production inputs, including planting materials (with costs deducted from the eventual sale of the products) to qualified groups working on large contiguous farms deemed suitable for the crops, and a guarantee to buy the harvest at pre-set prices. There are, however, some problems attached to contract growing. The technology transferred in a number of cases are so radically different from traditional farming practices. At times conflicting with culture that the recipients have difficulty absorbing. Consequently, the quantity and quality of the produce are affected, resulting in rejects, which have to be sold elsewhere at lower prices, and lower than expected farm incomes. The ARMM, therefore, must take into account these potential problems in dealing with large agribusiness companies.

#### ***3.4.5 Encourage the development of other viable industries within the ARMM***

Replicating and expanding GEM-supported high-value agricultural and mariculture production and marketing activities would be a good idea. These activities have demonstrated immediate poverty-alleviation results, sustainability and do-ability. There could still be room for increasing production in commodities that were given support in recent past; traders, for example, believe seaweed production can be increased further by up to two times their current levels. The potential for higher fish catch and mariculture also remains untapped, especially in the Sulu Sea. Agricultural lands, as discussed previously, are underutilized. Higher production will boost trading, and trading is what a significant number of ARMM businessmen are doing. The promotion of these commodities should be market-determined – i.e., there must be identified buyers of the produce.

As a long-term strategy, the ARMM government in association with the ABC should solicit additional donor-supported technical assistance to identify opportunities beyond agriculture and fishery, and drawing up long-term investment programs for them (*Table 3-3*). Determining the potential for developing mining, gas and oil, industrial forestry, light manufacturing and assembly, and tourism in the region over the long-term would be a good start.

Essentially, these activities require a longer period for commercial development, and the existence of certain preconditions to succeed. The most basic elements needed would be infrastructure – efficient transport, power, water and telephone systems – improved governance, and peace and order.

In mining, gas and oil, prospecting and exploration alone could take up to five years; if the prospect turns out to be commercially viable (the probability of success is about 5%), it would take another one to two years (assuming the anti-mining sentiments are hurdled) to get the official approvals and another five years to develop it. A transparent system of revenue sharing, and social and environmental safeguard measures, must be designed to be able to determine beforehand if the benefits of the project outweigh its costs to the regional economy, hence ensuring the approval of the project. Industrial forestry is also a long-gestating project, as planting to harvest takes about three to four years for fast-growing species (mostly softwood) and 10 to 20 years for hardwood. The forestry sites need to be designated, and programs developed to ensure broad-based community participation and that the trees cut are replaced so that the stock is not depleted.

For tourism, there are a number of potential spots in Tawi-Tawi and other island provinces of the ARMM, and the initial step is to identify these areas so that an integrated development and marketing plan can be formulated around them. Obviously, access to these sites, the availability of basic amenities (electricity, safe water, and telephones) and the safety of travel are paramount. These are features that are expected to be established only over the long-term. Also, residents need to be trained to become tourist-oriented.

Some light manufacturing and assembly could be attracted into ARMM if the educational level of the region's workers significantly improves, workers with the relevant skills reach a critical mass, infrastructure is in place, key business costs (e.g., power, water, port fees, etc.) are made competitive, and the industrial zones are secured. Under the most optimistic scenario, improving the region's educational and skills profile alone could take about a decade. It is important to consider that the advantage of the Philippines as a low-cost factory site is steadily eroding, losing out to countries like China and Vietnam, so ARMM needs to work double-time to revive investor interest in manufacturing and assembly.

A medium-term investment strategy may also be formulated, one that tries to promote the establishment of processing facilities for some commodities targeted for expanded production and trade in the short-term. Initiatives along this line have been undertaken by GEM and others, a good starting point would involve revisiting these programs – i.e., determining enabling conditions to increase their chances for success, possible revision in program design, seeking new investors, etc. New processing projects may also be identified, based on economic changes that have occurred in the region (i.e., which commodities other than those targeted have experienced significant expansion to justify

the putting up of processing plants; support activities like the production of packaging materials) during the past five to six years.

**Table 3-3. TRADE AND INVESTMENT OPPORTUNITIES  
IN SHORT, MEDIUM AND LONG-TERM**

Short-term	Medium-term	Long-term
<ul style="list-style-type: none"> <li>■ Agricultural crops – existing high-value, e.g., bananas, mangoes, coffee</li> <li>■ Seaweed</li> <li>■ Marine products</li> </ul>	<ul style="list-style-type: none"> <li>■ Agricultural crops – new high-value, e.g., palm oil, tapioca, white potatoes, etc.</li> <li>■ Agro-processing, incl. Seaweed</li> <li>■ Light agro-based manufacturing, incl. fish canning</li> </ul>	<ul style="list-style-type: none"> <li>■ Gas and oil</li> <li>■ Tourism</li> <li>■ Industrial forestry</li> <li>■ Mining</li> <li>■ Light manufacturing and assembly</li> </ul>

### **3.5 Strategies to strengthen the business related policy-making capacity of the ARMM government**

As discussed in *Section 3.1*, ARMM has a chance to chart the course of its development if it is able to take advantage of the opportunities from its autonomy. Autonomy gives ARMM certain powers to pass laws that are more business-friendly than what national laws provide. A few strategies are outlined below to help make this happen. It would be helpful for the ARMM regional government and the Regional Legislative Assembly to revisit the Organic Act (RA 9054) to determine what powers the Act has granted to them that can be maximized, within the limits of the Philippine Constitution, for the benefit of the region through the adoption of relevant policies and passage of enabling laws.

#### **3.5.1 Private sector participation in business policy-making**

For the ARMM government to be able to get vital inputs from the business sector in policy-making and be able to consider them as partners in development, it should formally tap representatives from the business community in an advisory capacity. This way, the government would also be able to get some commitment of support from business to the policies formulated.

The strategy can be pursued in two tracks.

First, relevant agencies like the R-DTI and/or R-BOI may invite representatives from the BSO's or the ABC on the relevant policy advisory bodies attached to their offices. Where such bodies do not exist, they can be created, with the business sector representatives serving pro bono. The other alternative is for the ABC have an official connection to,

either the R-DTI or R-BOI for the purpose of giving advice to the ARMM government on business related policy-making.

Second, it would be desirable for the ARMM leadership to form a Senior Business Advisory Council (SBAC) composed of a few prominent and well-respected business leaders in the country, either from local or multinational companies, and belonging to the Top 500 corporations (membership of between five to 10, and by invitation), who can provide the ARMM Governor some practical insights on how to promote investment and create more business opportunities in the region and to suggest policy changes to improve the business environment. The SBAC can provide suggestions on specific actions needed to encourage the advisors' own companies, for example, to establish presence in the ARMM or partnerships with ARMM businessmen, or impart useful lessons from their contract-growing or other experiences in doing business in Mindanao (assuming that the advisers have firms operating in Mindanao). In effect, the SBAC can provide the ARMM leadership a better appreciation of the business perspective. The Council can meet in Manila, or alternately in Manila and Mindanao (not necessarily in the ARMM), every six months or as often as needed. This can also help lend prestige to the ARMM leadership and send the message that ARMM means business.

### **3.5.2 Obtain additional technical assistance in policy research and advocacy**

One probable reason why the ARMM executive and legislative branches of government (ARG) are unable to pass more laws that are beneficial to business is their lack of technical expertise to identify, conduct research, prepare the enabling laws, and lead policy change activities on critical business issues. The ARG also lacks the necessary funds to commission experts to perform such tasks. Hence, it would be desirable for the ARMM government to obtain donor assistance that could be directed towards these efforts. Consultants could then help identify, in consultation with the ARMM government and concerned sectors of the ARMM society, which issues and opportunities need to be addressed to improve the business climate in the region. As a starting point, the ARG and the RLA can look at the Organic Act to determine the scope of their powers, and to assess which among these powers can be utilized to address certain issues affecting business in the ARMM.

This exercise should generate a policy research and change agenda. Next, research on each of the items in the agenda would then be contracted to experts, who would submit policy recommendations and possibly proposed issuances or legislative bills to the ARMM government. The Consultants' job would be to help explain the research results to ARMM executives to ensure that the latter understand and accept them. Acceptance and adoption by the ARMM government of the research output is crucial as it is the task of the government to implement the output. Some of the suggested issues for possible inclusion in the policy research agenda are found in *Table 3-4*. Other policy reforms can be eventually identified through a closer review of the opportunities available under the Organic Act.

**Table 3-4. SOME ITEMS THAT CAN BE INCLUDED  
IN AN ARMM POLICY RESEARCH AND CHANGE AGENDA**

<b>Item/issue</b>	<b>Rationale</b>
Increasing the establishment of plantations by passing a law that exempts ownership of commercial plantations from agrarian reform.	Large agribusiness companies are interested in going into contract growing or joint venture provided a large volume of quality produce can be assured by growers, and this would require the development of large plantations. But the Comprehensive Agrarian Reform Program (CARP) limits farm land ownership to a maximum of 6 hectares.
Tax and other incentives covering expansion of existing businesses within the ARMM, agriculture, etc.	ARMM's strength lies in agribusiness, and it is mostly the existing local businesses that can be expected to invest in these ventures. So unless the ARMM enacts its own investment incentives act that takes all these into account, the national incentives act remains the legal framework, which mainly focuses on new, high-value, export-oriented, high-technology and manufacturing projects that are not expected to be attracted by the region in the short-term.
Establishing a zone for cultivation of crops with genetically-modified organisms (GMO's)	This is an opportunity that ARMM can avail of, by opening up certain farm areas for the cultivation of genetically modified crops, while safeguarding non-GMO farms from real or imagined risks attributable to GMO's. This could generate interest among the GMO firms.
Establishing a Halal certification board	This could attract interest among food manufacturers wishing to sell their products to the Muslim population. ARMM is in the best position to benefit from this project, as it is a uniquely Muslim region.
ARMM version of the BOT law	This provides an opportunity to tap the private sector for infrastructure projects, given the ARMM government's problem on counterpart financing. ARMM could pass a BOT law that is more liberal than the national BOT law, especially on the provisions on unsolicited projects.
Possibly opening up of certain areas in the ARMM for the servicing of foreign civil or military vessels, etc.	To the extent that the Constitution allows, ARMM could study appropriate measures to attract the U.S., for example, to set up some sort of a servicing facility within the area. The ARMM government, especially the present Secretary of the R-DTI, believes that <i>"the American strategic interests in the area (astride the vital sea lanes to the South China Sea) can be harnessed for the development of the ARMM if they invest in the creation of a free port in the area since warships and submarines can dock at the free ports to re-supply in accordance with the Mutual Logistics Support Agreement (MLSA) between the US and the Philippines, similar to the example of Hong Kong and Singapore."</i>
Focus on educational and skills training	The ARMM government can develop an action plan for education and skills training, one that strives to achieve universal primary and secondary education over the long-term, and targets an increase in the availability of appropriate technical skills over the medium-term. The plan could also incorporate a component on the remedial skills needed by ARMM's micro-enterprises and SME's (e.g., management, accounting, financial analysis, inventory control, marketing, etc.), and identify the institutions that can provide the training.
Exploring viable options to generate revenues for the ARMM regional, provincial, city and municipal governments.	The Local Government Code of 1991 has already specified the kinds of taxes and other charges that can be imposed by the local government units (LGU's). The Organic Act also has extensive provisions pertaining to revenue generation by the regional government. The task is to determine how, and which among these taxes can be effectively imposed for particular levels of government. For example, instead of contemplating on giving generous tax incentives, LGU's could opt to just make it easier to establish new businesses through a much simplified business entry and renewal procedures. Land survey and titling would also increase the chances of the LGU's for higher property tax yields.

### ***3.5.3 ARMM Executive and Legislative branch collaboration to accelerate policy change to support business environment***

It is important for the ARMM leadership to more aggressively lead the entire regional government machinery, including the Regional Legislative Assembly (RLA), to approve and implement key and necessary policy change. For this to be effective, the leadership must be clear about its vision and goals, and to articulate them in a specific legislative agenda. The output from the research agenda discussed in 3.4.2 – particularly the proposed Executive issuances and legislative bills that come out of them – could be a major source of the specific policy change agenda. The ARMM leadership, in partnership with the ABC, however, also needs to initiate the advocacy for these reforms. More active leadership would be required by the ARMM Governor to certify specific reform bills as priorities for legislative action – and to support the RLA's efforts to pass them. The priority bills should come from the Executive's policy reform agenda. It would be helpful if the existing Legislative-Executive coordinating committee meets more often – at least once a month, or as frequently as needed, and not once every six months – to monitor and discuss the status of the reform bills, and to expeditiously resolve problems. For its part, the RLA may find it advantageous to conduct more public hearings to get the reactions and suggestions particularly of the business sector, whether within the ARMM or outside, on the proposed bills. The results of these hearings can then be reported and discussed in the Legislative-Executive coordinating committee, to serve as a guide on how to revise the bills to improve them and make them more acceptable to the sectors affected.

### ***3.5.4 Pursue capacity building for the ARMM government as a pilot project on federalism***

One of the proposed changes in the Constitution, if the plan to amend the Constitution is eventually carried out, is the shift to federalism. The ARMM's autonomy presents itself as an opportunity to show how to make federalism work, particularly in the lagging areas of the country and to identify what the problems are and how to best address them. Hence, the ARMM government can “sell” the idea to donors of the ARMM being a good laboratory for the experiment in federalism. By the time federalism is adopted nationwide, the country would be reasonably prepared to make it work, as it could have the ARMM model to learn from. At any rate, technical assistance towards improved governance at the regional and local levels already exists – from the USAID, CIDA, Konrad Adenauer Stiftung, etc. – so the intent is to have some re-orientation of this assistance to allow for reforms in the political system, bureaucracy, public administration, system of checks and balances, etc., to make ARMM a working model for a federal state. Many of the refocusing initiatives have already been mentioned in various parts of this Report: a collaborative effort towards policy reform and change agenda by making the coordinative mechanism between the Executive and Legislative branches work more effectively; a more active ARMM legislature; institutionalizing the participation of the private sector in business policy-making, public investment program monitoring, and development planning; and, professionalizing the bureaucracy.

### ***3.5.5 Further pursue devolution at local levels of government***

The legal framework for lower levels of government to do things for the benefit of their constituencies exists. The Organic Act specifies areas where the ARMM regional government can effect policy changes. The Local Government Code of 1991 (RA 7160)

devolves certain basic services and facilities to local government units (LGU's) in an effort to make them self-reliant. These basic services and facilities include agricultural extension services; enforcement of forestry laws; approval of small-scale mining (for provincial governments); primary health services; social welfare; solid waste disposal; implementation and maintenance of infrastructure projects funded by the LGU's themselves, the LGU share of national tax collections, and national government subsidies; investment support services; tourism development. The Code also allows LGU's to raise specified forms of taxes and to borrow funds for development projects.

The ARMM LGU's, more than the other LGU's in the country, need technical assistance from the central and regional government agencies to make devolution work in their areas. A value change among the ARMM LGU's may also be necessary for them to appreciate the importance of effectively handling the devolved services and facilities. Outsiders would gauge how far governance has gone partly through the LGU's success in performing their mandated tasks under the Code, and governance is, from the viewpoint of investors, a key element in determining the attractiveness of the area as an investment site. Governance is also a parameter used in determining an LGU's credit rating (which is critical for raising funds through borrowings) and preparedness to directly absorb foreign aid.

### **3.6 Strategies to help address infrastructure constraints**

As discussed in *Section 3.1*, there are at least two key factors affecting the implementation of national infrastructure projects that have commitments from international funding agencies in the ARMM: lack of counterpart financing from the national government, and perceived security risks to donor officials visiting the project areas and project contractors. It could also be added that the ARMM government has no financial means to implement projects on their own. A number of suggestions on how to contain peace and order problems were covered in *Section 3.3*. Below are some of the recommended strategies addressing financing and other technical issues on infrastructure.

#### **3.6.1 Intensify collaborative efforts to accelerate ARMM infrastructure development**

Lobbying for key infrastructure development by the national government and donors has a better chance for success if done by Mindanao as a bloc, rather than ARMM going on its own. The close consultation and coordination between the Mindanao Economic Development Council (Medco) and the ARMM government as far as what ARMM projects would be included in the package of Mindanao projects for priority implementation by the national government reinforces this important lesson. This arrangement has enabled Medco to help get the commitment of the national government to have the Saudi-funded road projects, including the Basilan Circumferential Road, started. This is because this approach is able to highlight the role played by ARMM projects in the overall development of Mindanao, as well as establishes how crucial these ARMM projects are in improving the access of the region to opportunities elsewhere in Mindanao. Other influential organizations, such as the Mindanao Business Council (MBC), can also be involved in the lobbying effort. ARMM must note, however, that this broad-based, integrated approach does not mean automatic inclusion of all its projects into the Mindanao project package. Rather, it will result in a selective list of



projects, but it will give a higher degree of assurance that the ARMM projects included will be implemented because they are part of a package that arguably yields the highest development impact in Mindanao.

The President has promised recently to spend an increased share of the national infrastructure budget in Mindanao as part of the efforts to bring peace and development in Mindanao. The national government needs to be constantly reminded of this commitment by the ARMM government, with support from Medco, MBC, etc. At any rate, there are at present only a few infrastructure projects in the pipeline for implementation in the region (see *Table 31 for the list*). ARMM can stress the obvious point that infrastructure helps bring development, development can lead to peace, and peace in Mindanao does have a positive impact on international perception of the entire Philippines.

### **3.6.2 *More actively functioning ARMM infrastructure bodies***

The ARMM government has an Official Development Assistance (ODA) support office. This office can be strengthened and made to work more actively to provide a single point of contact to assist donors and to develop project proposals. What it should avoid is the danger of becoming a controlling body; rather, it should be facilitative clearinghouse, programming a package of projects that are mutually reinforcing and consistent with the development goals of the region.

GEM has also provided assistance leading to the establishment of Infrastructure Monitoring Advisory Groups (IMAGs) to help solve problems encountered in infrastructure implementation (see *report on IMAG*). IMAGs, which monitor the progress of implementation of vital infrastructure projects in the region, focusing on the problems encountered especially with contractors, and consisting of representatives from the LGU's, media, and CCI's, have the potential for a more effective, speedy and transparent implementation process – if the Groups' members participate more actively and fulfill their mandated tasks.

Also, GEM has provided training to familiarize the ARMM government and business sector on the new national procurement law. This has led to the ARMM Governor designating the ARMM Business Council as an observer on the ARMM-DPWH Bids and Awards Committee.

### **3.6.3 *Explore alternative ways of raising counterpart financing***

Measures should be explored to minimize the cash outlay for government counterpart financing of infrastructure projects in ARMM. This is especially critical for on-going projects such as the ARMM Social Fund, which requires a much larger counterpart budget of P650 million in 2004. The measures may include either or a combination of the following:

- Counterpart in kind – e.g., land (consider getting land donations, as anyway the landowner, by donating part of his or her land, stands to benefit from the appreciation of the value of the land as a result of the project); labor (volunteerism or self-help), etc.

- Develop more cost-effective project designs, so costs can be reduced and the amount of counterpart funding scaled down accordingly.
- Explore the possibility of tapping grants that provide full funding, or the use of grants for the needed counterpart funds.
- Explore viable options on raising revenues at the regional and local levels, in accordance with the relevant provisions of the Organic Act and the Local Government Code. Two options are suggested in the last item of *Table 3-4* – i.e., giving priority to facilitative services rather than tax incentives to attract businesses; improving the system of property taxation.

### **3.6.4 Promote private sector participation in ARMM infrastructure development**

The ARMM government could try to promote private sector investments in infrastructure in the ARMM. ARMM-based investors can be considered, given that some may be able to afford to, and have in fact expressed interest in funding these projects, as these are mostly small- to medium-scale projects. This may require the passage of ARMM's version of the BOT law, a law that is more suited to the conditions of the region. This is also intended to minimize the approval process (i.e., layers of national approvals would be required if the national BOT law were to be applied), and to simplify the bidding process including the Swiss challenge system for unsolicited projects.

Another approach is to study the possibility of private investors (preferably ARMM-based) providing the counterpart funds on behalf of the LGU or the regional government, particularly for special infrastructure financing facilities provided by foreign donors. ODA-funded projects, however, do not allow this arrangement, as these projects are for the free use of the general public. There is a tendency for projects with part or full financing by private entities of becoming for the exclusive or priority use of these financiers, with the rest able to use them if they pay toll fees.

### **3.6.5 Strengthen ARMM's technical competence in project identification**

Major projects in the ARMM are identified at the national level, while regional projects identified at the regional level and incorporated into the ARMM regional development plan seldom get implemented. The latter projects fail to take off because ARMM does not have the money to implement them, and the national government agencies do not give much weight to them in drawing up their own priority projects. Also, a look at the list of regional projects indicates that it is mostly a consolidation of the “*wish lists*” of various ARMM agencies.

It would be advantageous for ARMM, particularly the RPDO, to strengthen its technical capability in project identification and prioritization. The list of proposed major projects in the ARMM is thin, so there is a need to expand the pipeline of projects for the region. A technically capable ARMM would be able to assist the national government generate new project ideas for this pipeline, as the ARMM knows better what it needs. Moreover, it would provide ARMM sufficient lead time to put in place project-related systems and expertise, so it will be more prepared to handle the task once ARMM develops the capacity to implement its own projects. The ARMM government can seek technical assistance from relevant national agencies like the National Economic Development Authority (NEDA) and personnel training grants for this purpose. In the interim, ARMM

business groups, during the First and Second ARMM Business Congress in 2002, have identified a number of infrastructure projects for specific areas in the ARMM (See *Appendix B*), which can be considered for inclusion in the pipeline.

### **3.7 Strategies for more effective delivery of education in the ARMM**

Education has a critical impact on the business climate, as noted in *Section 3.1*, but improving the present deplorable state of education will require a massive effort with results taking a long time. Foreign donor initiatives have made ARMM education improvement a priority, based on the number of projects they are supporting in the region (see *Table 3-5*). These programs need to be expanded and strengthened. Some re-focusing may also be needed, maximizing the benefits from the limited resources accorded to education.

#### **3.7.1 Sustain current education-related initiatives**

It is crucial for the ARMM to impress upon the national government that the region's budget for education needs to be raised to at least the national per pupil average, as it is clear from the statistical indicators that it is in the ARMM where the need to provide basic educational services is most severe. It must be a priority of the ARMM government to ask the national government and foreign donors to sustain programs that deliver basic educational services in the region. Efforts need to be taken for their expansion to the island provinces of the ARMM, as most of the current projects are in Central Mindanao. One constraint may be the attitude of the people towards education. To a certain extent, this could be surmounted by, for example tying livelihood support to the education of the children of the recipients of the support, or by also targeting the provision of alternative, non-formal education to parents and adults. One-time programs that terminate after a brief period are unlikely to have any significant impact, as it takes about a decade for their benefits to take root (basic education runs for at least 10 years).

Private and business groups also need to be tapped for possible contributions to the efforts at improving the quality of and access to education in the ARMM. If the private sector is able to pool funds, it would be in education – scholarship grants; defraying the incidental costs such as uniforms, school supplies, food allowance, etc. – where it would likely have the most beneficial impact. The business groups could also be capable of sponsoring skills training, as most large companies have an existing system of training and apprenticeship. Significant results could be achieved if these programs are designed on a sustainable basis, perhaps leveraged with donor projects on education, and not just a one-time charity concern.

Supplemental funds for education can also be made available if the ARMM regional, and even local governments are able to raise additional revenues – a recurrent theme of this Paper (apart from peace and order and improved governance). It is believed that development can best be served if financial resources generated at all levels of government are channeled into two priority areas: infrastructure and education.

### **3.7.2 Accord priority to efforts at keeping children in school**

It would be helpful if education-related initiatives discussed in 3.7.1 consider increasing the participation and completion rates in elementary, and eventually secondary education as their primary focus, particularly on the provision of school facilities and improving the quality of instruction. The UN Millennium Development Goals (essentially global poverty alleviation) make universal basic education a cornerstone, and obviously, ARMM is a region that pulls the entire country down when assessed against this benchmark. The government must especially be compelled to act by raising its per pupil spending on education in the ARMM to at least the national average, so that there will be more classrooms, school desks, textbooks and teachers in the region. There are not enough schools in remote places in the ARMM. The government needs to be reminded of its commitment to “*education for all*” under the UN Millennium Development Goals.

Strengthening the Parents’ and Teachers’ Associations (PTA’s) in the ARMM, particularly in inculcating to parents the importance of education for their children and discussing parents’ and children’s attitudes and problems with schooling, could help encourage families to keep their children in school. Parents could also be convinced to attend the PTA meetings and to be involved in PTA-sponsored projects and events, as these may help increase their interest in school affairs.

But all these efforts may not be enough if the environment remains difficult for school participation. Volatile peace and order conditions, in particular, disrupt classes, force children to abandon school to flee with their families to safety, and transform school buildings into evacuation centers. So it is crucial to have peace to help improve the environment for education.

### **3.7.3 Promote distance learning**

One of the promising innovations, which the national government claims has gained wide acceptance during pilot testing, is the distance learning system. People in remote areas where there are no schools, and regardless of socio-economic status, are potentially able to get quality education and skills training through video and other forms of communication. Distance learning is the most expeditious way of compensating for the lack of classrooms, teachers and books, especially in areas considered as security risks. This, however, must be viewed as an interim solution; distance learning cannot fully replace the benefits of a formal educational system, so the long-term solution is still to build more learning centers.

The Department of Education (DepEd) started a program this school year, with a medium-term target of reaching “3,000 *barangays*” in Mindanao. At the same time, the Technology and Livelihood Resource Corp. (TLRC) is mobilizing vans in certain areas in Mindanao, including Cotabato City (but none yet in the ARMM), to provide basic education and special training courses. ARMM can ask the national government to give the region priority for any possible expansion of the distance learning program, as it is clearly the region that needs it the most. The expansion of the program, however, would depend on the success of the government in soliciting more support particularly in terms of physical facilities (TV’s, video players, satellite dishes, power sources) and financing for the reproduction of more teaching modules.

Non-formal education in the ARMM can be reinforced by e-learning (education through the Internet), which would require the deployment of more personal computers (PC's) – one per brangay (with electricity) can be the target – to be used principally for educational purposes and partly or wholly funded by barangay funds (or through donations or subsidies, if the barangays are able to secure them). One thrust of this e-learning could be improving the English language proficiency of learners, similar to and supporting GEM's English Language Instruction Program.

**Table 3-5. SOME DONOR-SUPPORTED PROJECTS ON EDUCATION IN THE ARMM**

Project	Donor	Project description
GEM-2 Educational Development Activities	USAID	5 activities are currently being pursued: (1) Educational Awareness and Support Effort (EASE) – increasing public awareness of key problems in the ARMM, and assisting key groups (business organizations, parents groups, etc.) in bringing about improvements in the schools; (2) English Language Instruction Program (ELIP) – improving English language skills of both school children and the general public through radio/media language instruction; (3) Computer Literacy and Internet Connection Program (CLIC) – providing computers and Internet access to ARMM schools and raising computer literacy levels of teachers and students in ARMM; (4) Education Planning – enhancing educational planning, analysis and budget skills of the DepEd-ARMM; (5) Vocational Education Interventions – selected interventions in key vocational training institutions to increase employment opportunities for ARMM youth.
Mindanao Basic Education Project	Asian Development Bank (ADB)	A 7-year project for children and the youth designed to provide an educational system that is suited to the diverse culture and needs of learners in Mindanao. Much of the improvement of basic education will be done, for example, through the Madrasah schools.
Basic Education Assistance for Mindanao (BEAM)	AusAid	Aims to improve the quality of teaching and learning in Regions 11 and 12 and in the ARMM. The project's target beneficiaries are the teachers and the educational managers. It is also focusing on the delivery of basic education to indigenous cultural communities (ICCs).
Gender and Culture of Peace in Minadanao (GENPEACE)	UNESCO	Consolidates a comprehensive, long-term multi-donor “ <i>peace and development</i> ” program. It provides non-formal educational training and initiated the operation of a local radio station. Now on its 3 <sup>rd</sup> phase, the project is being implemented by NGOs with the Notre Dame Foundation for Charitable Activities-Women in Enterprise Development as the lead.

**Cont'n...Table 3-5. SOME DONOR-SUPPORTED PROJECTS ON EDUCATION IN THE ARMM**

Project	Donor	Project description
Third Elementary Education Project (TEEP)	World Bank & Japan Bank for International Cooperation (JBIC)	Aimed to improve literacy, learning achievement and completion rate of school-goers in the 26 poorest provinces, including the ARMM provinces of Maguindanao, Sulu, Tawi Tawi and Basilan. It also had a component to build new classrooms and repair dilapidated ones. The TEEP, however, was reportedly among the projects pre-terminated by the national government as the project had been moving slowly because the government could not produce sufficient counterpart budget.
"Arms are for Hugging" Project	Community and Family Services International (CFSI)	Its objective is to promote a culture of peace among 6-17 year olds from impoverished communities in Maguindanao. The project provides support – uniforms, school bags, halal school lunch, immunization, etc. – to a limited number (500 at a time) of children and youth to enable them to finish basic education, especially primary education. The beneficiaries are accommodated in special schools that integrate the features of the public school system and the Madrasah system, and enhanced with components on child rights, basic public health, reproductive health, psychosocial care, and peace and reconciliation. The project also incorporates livelihood and skills development for the families of the beneficiaries. The focus of intervention is on children affected by the war.

### **3.6.3 Give attention to the out-of-school youth problem**

The best solution to the "out of school youth" (OSY) problem is to provide good public educational services that will keep children in school and to reduce conflict so schools remain open and children can get to them. This must be the priority. However, given the vulnerability of the OSY to being lured to criminality and insurgency, it is crucial for educational intervention schemes to have components that address the needs of this group. Rather than give jobs, which could be limited, the idea is to get most of the youth back to school. Models that have worked, such as the Community and Family Services International (CFSI) program, could be looked into for possible improvement, replication and expansion, with the objective of making them more cost-effective so they can accommodate more beneficiaries. Other donors and non-governmental organizations could be tapped by the ARMM (the World Bank and other donors have expressed interest in providing assistance to the OSY in the ARMM) to provide more financial support to sustain programs that are working, possibly under a multi-stakeholder arrangement.

The coverage of scholarships to poor but promising ARMM students can also be expanded, not only in terms of beneficiaries but also in terms of expense items other than tuition fees – books, clothing, even food and other expenses incidental to going to

college. Even though this type of intervention may be expensive, it is likely to cover only a few students, hence manageable. ARMM can pool a number of private benefactors for this purpose.

Suggestions have been made towards providing vocational and technical education for ARMM's OSYs. The First ARMM Business Congress called for the establishment of technical skills training center by the Technical Education and Skills Development Authority (TESDA), while GEM is developing a vocational-technical school or a training program in the ARMM. While these initiatives are commendable, it should be noted that if the job opportunities are limited in the ARMM. The initial approach must be to conduct a skills training needs assessment first to be able to determine the most appropriate form of technical education intervention. The more viable alternative would be to deploy ARMM trainees in nearby areas, such as Zamboanga or Cotabato, where they have a better chance of finding employment. But eventually, a training center has to be put up in the ARMM, with courses suited to the region's business strengths, if there are indications that investor interest in the region is increasing.

### **3.8 Strategies to improve access to formal credit**

The ability to secure expansion and particularly start-up financing is a major problem among SME's (ARMM businesses are mostly SME's) as it is anywhere in the Philippines. Banks are hesitant to lend to these enterprises because of the high transactions costs, low business success rate, and the high risk of default. The idea behind the strategies presented below is to make the barriers to credit less severe in the ARMM.

#### **3.8.1 Increase land titling efforts**

The obvious solution to reduce the collateral problem is to accord priority to land titling. There are some donor projects focused upon land titling in certain areas of Mindanao, including parts of the ARMM (e.g., ADB's Agrarian Reform Communities Project). The ARMM government can explore additional assistance for land surveys and for setting up an efficient land registration system. They could also seek technical assistance from relevant national agencies like the Land Registration Commission (LRC), and tie up (share information, pursue joint efforts, etc.) with related programs of the national government, such as those being conducted under the Indigenous Peoples Rights Act (IPRA). Land with titles can also be a potential revenue base, through property taxes and other tax yields should it become more productive as a result of titling.

#### **3.8.2 Encourage the establishment of additional bank branches in the ARMM**

Monetary and banking policies remain with the Bangko Sentral ng Pilipinas (BSP) or central bank despite the autonomy granted to ARMM. The BSP currently restricts the creation of new bank branches except for banks catering to micro-enterprises since they believe that the Philippines has too many banks and commercial bank branches (*"it is over-banked"*). This is definitely not true in the ARMM. Under existing law, two options are open for ARMM: initiate fiscal or non-fiscal incentives to attract banks that provide

credit to micro-enterprises and to rural banks or to encourage the transfer of unused banking licenses in certain areas to ARMM.

The first option has its drawbacks. As some traders interviewed said, while micro-finance can support the expansion of small businesses, since micro-finance involve small amounts and very short maturities, it cannot have a significant impact on the creation or expansion of the medium scale and large businesses that ARMM needs. Project investment and expansion involves relatively large amounts and longer payback periods. Nonetheless, having these types of banks would still be helpful for small traders and businesses.

The second option will depend on whether or not banks perceive potential profits and feel secure about locating in the ARMM. What the ARMM government can do to address these concerns is to provide some forms of incentives in coordination with host local governments, such as time-bound exemptions on land taxes and other local taxes, and assurance that the banks will be provided security. If the REZA law is able to attract investments, banks may also be encouraged to transfer some branches to areas designated as ARMM special economic zones.

### ***3.8.3 Encourage foreign banks to establish branches in the ARMM***

The law mandates that the BSP implement the Foreign Banking Act. Although the Foreign Banking Act limits the number of foreign banks that can be established in the country (and the limit has already been reached), new foreign banks are exempted from this limit if it acquires an existing local bank. It is possible for Malaysian, Indonesian and other foreign banks to establish presence in the ARMM, by acquiring a local bank elsewhere in the Philippines and transferring the license to the ARMM, as Malaysian-owned Maybank did when it transferred a Visayas license to Zamboanga with the assistance of GEM.

While the establishment of Islamic Banking may have limited impact on business expansion, since, after all, they must operate for profit and minimize risk to their capital just like other banks, there is a felt need in ARMM for Islamic Banking services and a perception that traditional banks are biased against Muslims. Moreover, Islamic banks work like venture capitalists – providing funds to high risk, high return activities and eventually sharing in the profits (La Frutera and other banana plantations in the ARMM, for example, succeeded because of support from venture capital) – which some Muslim businessmen are more comfortable dealing with.

The law mandates that Islamic Banking be performed exclusively by the Al Amanah Bank. To address this exclusivity issue, the ARMM government can consider getting agreement from the Central Bank to provide incentives and other support to foreign Islamic banks acquiring and reviving the operations of the Al Amanah Bank. A Malaysian bank, for example, has previously shown interest for the acquisition. The ARMM government can try to help make this transaction happen by assisting the prospective investor on the aspects of legal compliance (e.g., securing permits and approvals), and by providing incentives similar to those outlined for local bank branches. As a longer-term strategy, the ARMM government could lobby Congress for the amendment of the Islamic banking law to open Islamic banking to more (foreign) players.



### 3.9 Implementation timetable

Table 3-6 summarizes the measures discussed in the previous sections of Chapter 3, in the short-term and over the medium- to long-term, and the possible entities responsible for them, to address the issues.

**TABLE 3-6. STRATEGIES AND MEASURES  
TO IMPROVE THE BUSINESS CLIMATE IN THE ARMM**

<b>Strategy</b>	<b>Short-term measures (within 3 years or less)</b>		<b>Medium- to long-term measures (Beyond 3 years)</b>	
	<b>Measure</b>	<b>Implementing entity</b>	<b>Measure</b>	<b>Implementing entity</b>
Address peace and order problems	Successfully conclude peace talks with the MILF	GOP, MILF, Malaysia, U.S.	A refocusing of military thrust in Mindanao towards keeping the peace rather than winning a war; increased consultations; sustained soldier re-orientation programs and performance evaluation; military presence in “hubs of economic activity”	AFP, ARMM regional government (ARG)
	Solicit outside help in containing P&O: - Regular Balikatan exercises in the ARMM - Foreign military aid (equipment) from U.S., etc.	GOP, AFP		
	Strengthen ARMM law enforcement agencies (TA on recruitment, training in police work)	ARMM-PNP, PNP/DILG, donor agencies	Strengthen ARMM law enforcement agencies (police academy/ training center in the ARMM, crime lab equipment, etc.)	ARMM-PNP, PNP/DILG, donor agencies
Strengthen the ARMM business sector	Re-orient the incentives scheme to support local businessmen (cut “red-tape” and improve governance)	R-DTI, R-BOI, Regional Legislative Assembly (RLA)	Improve ARMM LGU's delivery of services to businessmen – permit approval and renewal of contract bids and awards, etc	ARMM LGU's, R-DTI, R-BOI, Local business communities (e.g. CCI's)
	Identify & assist people or groups with potential for business growth – search team for potential entrepreneurship; annual entrepreneurship awards	GEM, NGO's (e.g., BSO's, ARMM Business Council), R-DTI Large corporations	Identify & assist people or groups with potential for business growth – search team; awards	Business NGO's, R-DTI, companies with operations in Mindanao, other outside investors

Cont'n.... **TABLE 3-6. STRATEGIES AND MEASURES TO IMPROVE THE BUSINESS CLIMATE IN THE ARMM**

<b>Strategy</b>	<b>Short-term measures (within 3 years or less)</b>		<b>Medium- to long-term measures (Beyond 3 years)</b>	
	<b>Measure</b>	<b>Implementing entity</b>	<b>Measure</b>	<b>Implementing entity</b>
Strengthen the ARMM business sector	Link up ARMM enterprises with large business companies – contract growing, JV's	GEM, business NGO's (e.g., ABC), R-DTI, companies with operations in Mindanao	Link up ARMM enterprises with large business companies – contract JV's, subcontracting	Business NGO's, R-DTI, companies with operations in Mindanao, other outside investors
			Encourage the dev't of other viable industries with the ARMM agencies identifying these potential activities and developing medium- to long-term plans around them	ARMM BSO's, ARMM investment agencies, large companies operating in the ARMM and outside investors
Strengthen the business policy-making capacity of the ARMM government	Private sector participation in ARMM business policy-making - business sector representation in R-DTI & R-BOI policy advisory bodies - Senior Business Advisory Council to advise ARMM Gov. on business policy matters	ABC/BSO's, ARMM Executive Branch, concerned gov't agencies (esp. R-DTI)	Obtain additional technical assistance in policy research and advocacy- in support of continuing efforts towards the development of policy reform and change agenda	ARMM Executive Branch, donor organizations
	Develop a policy reform agenda	ARMM Executive Branch, RLA	Pursue capacity building measures for the ARG - federalism; advocacy groups; bureaucratic streamlining/professionalism	ARMM Executive Branch, donor organizations
	ARMM Executive and Legislative branches collaboration to accelerate policy change to support business env't	ARMM Executive Branch, RLA		

Cont'n.... **TABLE 3-6. STRATEGIES AND MEASURES TO IMPROVE THE BUSINESS CLIMATE IN THE ARMM**

<b>Strategy</b>	<b>Short-term measures (within 3 years or less)</b>		<b>Medium- to long-term measures (Beyond 3 years)</b>	
	<b>Measure</b>	<b>Implementing entity</b>	<b>Measure</b>	<b>Implementing entity</b>
	Pursue capacity building measures for the ARG – democratic institutions and dynamics with a federalist framework; role of public opinion and advocacy groups; professionalizing the bureaucracy	ARMM Executive Branch, donor organizations		
Address infrastructure constraints	Intensify collaborative efforts to accelerate ARMM infrastructure development – ARG, with support from Medco and key Mindanao business groups – to make representation with GOP for increasing share of ARMM in national infra budget and implementation of projects in ARMM as GOP promised	ARG, Medco, MBC, ABC, other Mindanao-based organizations	Explore alternative ways of raising counterpart financing – counterpart in kind, more cost-effective project designs, tapping grants, local revenue generation options	DOF, DBM, Office of the President, ARMM, ARMM LGU's
	More actively functioning ARMM infrastructure bodies – facilitative rather than controlling	ARG-ODA support office, IMAGs, RPDO	Strengthen ARMM's technical competence in project identification – technically capable of developing a pipeline of projects, programming public investments in the ARMM	ARG/RPDO, national planning agencies (e.g. NEDA), donor organizations, ABC
			Promote private sector participation in infrastructure dev't – passage of ARMM's version of the BOT law	ARMM Executive Branch, RLA

**Cont'n.... TABLE 3-6. STRATEGIES AND MEASURES TO IMPROVE THE BUSINESS CLIMATE IN THE ARMM**

<b>Strategy</b>	<b>Short-term measures (within 3 years or less)</b>		<b>Medium- to long-term measures (Beyond 3 years)</b>	
	<b>Measure</b>	<b>Implementing entity</b>	<b>Measure</b>	<b>Implementing entity</b>
More effective delivery of education in the ARMM	Sustain current education-related initiatives of donor agencies; tap the private sector for additional contributions; raise more local revenues for education	DepEd, DBM, donor agencies, local business community (led by MBC/ ABC), ARG, ARMM LGU's	Sustain current education-related initiatives	DepEd, DBM, donor agencies, local business community (led by MBC/ ABC), ARG, ARMM LGU's
	Accord priority to efforts at keeping children in school: - ARG to ask GP to raise education spending per pupil in ARMM to national average - Strengthen Parents and Teachers Associations (PTA's) in the ARMM - Address peace and order concerns	DepEd, DBM, GP, MILF, ARG, ARMM LGU's, ARMM local school boards	Accord priority to efforts at keeping children in school: - higher per pupil spending in the ARMM - strengthen PTAs address P&O problems	DepEd, DBM, GP, MILF, ARG, ARMM LGU's, ARMM local school boards
	Promote distance learning and other non-formal educational programs	Relevant government agencies (DepEd, TESDA, etc.), donor organizations, ARMM LGU's	Give attention to out-of-school youth problem – scholarships; financial support to incidental school expenses; vocational and technical training	NGO's, private benefactors, business sector (ARMM & non-ARMM, donor agencies
	Give attention to out-of-school youth problem – scholarships; financial support to incidental school expenses; vocational and technical training	NGO's, private benefactors, business sector (ARMM & non-ARMM, donor agencies		

Cont'n.... TABLE 3-6. STRATEGIES AND MEASURES TO IMPROVE THE BUSINESS CLIMATE IN THE ARMM

<b>Strategy</b>	<b>Short-term measures (within 3 years or less)</b>		<b>Medium- to long-term measures (Beyond 3 years)</b>	
	<b>Measure</b>	<b>Implementing entity</b>	<b>Measure</b>	<b>Implementing entity</b>
Improve access to credit	Increase land titling efforts	ARG, concerned national agencies (e.g., LRC, NCIP, DAR)	Increase land titling efforts	ARG, concerned national agencies (e.g., LRC, NCIP, DAR)
	Encourage the establishment of additional bank branches in the ARMM - fiscal and non-fiscal incentives to microfinance banks; transfer of unused banking licenses in certain areas to ARMM	ARMM Executive, RLA, R-DTI, BSP	Encourage the establishment of additional bank branches in the ARMM - through increased investment activity in the ARMM, improvement in the peace and order conditions	ARMM Executive, RLA, R-DTI, BSP
	Encourage foreign banks to establish branches in the ARMM - acquisition of local banks and transferring unused banking licenses in certain areas to ARMM; acquisition of Al Amanah Bank and opening up Islamic banking facilities in the ARMM – with incentives from ARG	ARMM Executive Branch, RLA, BSP, R-DTI	Encourage foreign banks to establish branches in the ARMM – e.g. lobby Congress to open Islamic banking to other players	ARG, BSP, Philippine Congress

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## **APPENDIX A. LIST OF KEY INFORMANTS**

***DR. PAROUK S. HUSSIN***

Regional Governor  
Autonomous Region in Muslim Mindanao

***DR. IBRAHIM P. IBAY***

Former Speaker  
ARMM Regional Legislative Assembly

***ATTY. NABIL A. TAN***

Executive Secretary  
ARMM

***ALTAB L. TULAWIE***

Chairman  
ARMM Board of Investments

***ATTY. ISHAK V. MATSURA***

Regional Cabinet Secretary  
ARMM Department of Trade and Industry

***PAUL DOMINGUEZ***

Senior Adviser for Mindanao  
Office of the President

***EDUARDO R. ERMITA***

Presidential Adviser on the Peace Process  
Office of the President

***NAZRULLAH B. MANZUR***

Executive Director  
Central Fund Management Office  
Office of the President

***FEMY O. CALDERON***

Executive Director  
Mindanao Economic Development Council

***MONER K. DUMAMAMA***

Executive Director  
ARMM Board of Investments

***HON. CLARA LOBREGAT***

Mayor  
Zamboanga City

***ENGR. JUN M. MACALAWAN***

Supervising Investment Specialist  
Technical Division



ARMM Board of Investments

**DR. SUSANA SALVADOR-ANAYATIN**

Chief, Technical Management Services  
Department of Trade and Industry  
ARMM

**BULKAIS M. LINO**

Asst. Executive Director  
ARMM Regional Planning and Development Office

**GANI J. PETRON**

Local Revenue Collection Officer  
ARMM Office of the Regional Treasurer

**ATTY. EMMA G. SALMANI**

Area Manager for Zambaonga  
Growth with Equity in Mindanao Program

**DR. JAINAL M. HAMAD**

President  
Tawi-Tawi Chamber of Commerce and Industry

**ENGR. & MRS. MOHAMMAD & BAISANDRA BASAAR**

Muslim Chamber of Commerce of Cotabato

**JOHN JAKUILAN**

Chairman  
Basilan Chamber of Commerce

**SALI AHALUL**

Sulu Chamber of Commerce

**LEOPOLDO S. TITULAR**

Assistant Vice President  
Agribusiness Development Group  
San Miguel Corporation

**ADAM S. OMAR**

President & General Manager  
Omar General Trading  
Zamboanga City

**ENGR. GEORGE G. LEDESMA**

Zamboanga Carrageenan Manufacturing Corp  
Zamboanga City

**EUGENE A. TAN**

Manager  
Coneco Sales, Cotabato City

***BENG L. CHUA***

President  
Minrico Lumber Enterprises Co., Inc.

***BELLE V. CHUA***

General Manager  
ICON Articrafts  
Cotabato City

***TOMAS P. ATIENZA***

President  
Compact Construction and Development Inc.

***MR. GUILLERMO LAUREANO***

Cotabato Cable TV Network

***DATU EUDATUM TALUSAN***

Manager  
Polloc Port

***VICTOR M. TAYLOR***

EVP, Hawaii Electric Inc.

***GEORGE LEDESMA***

LM Zamboanga United Trading

***EDGAR LIM***

Permex

***ENGR. LEVI PASCO***

Mega Fishing Corp.

***BENJAMIN LOONG***

CEO, BJ Coco Oil Mill

***RODOLFO DELOS REYES***

SR Seafoods

**APPENDIX B. First ARMM Business Congress Priority Issues/ Concerns/ Recommendations (August 2002)**

<b>AREAS</b>	<b>COMMON CONCERNS</b>	<b>BASILAN</b>	<b>LANAO DEL SUR/ MARAWI</b>	<b>MAGUINDANAO</b>	<b>SULU</b>	<b>TAWI-TAWI</b>
Flood control	Poor drainage system and waste management	Pool LGU & regional funds; tap int'l donors; float bonds		Solve waste mg't problem in Parang – LGU to buy additional dump trucks		
Credit & financing	Lack of access to credit  Resumption of Al-Amanah Bank operations		Set up DBP branch in Marawi City			
Information	Lack of credit information services, and information drives on RBOI incentives  Absence of RBOI "one-stop shops" in strategic areas		Banks to provide client orientation on credit facilities available to businessmen/investors	LGU/DOT should establish a general Information center		
LGU support	LGUs lack of readiness as investment site		Provincial government to provide infrastructure facilities		Establish Halal Certification Board for coconut oil processing	Prevent political interference in business activities  Government to act as catalyst of development not as direct competitor of the private sector
Health	Construction of health centers		Ask Congress support for health infra		LGU to strictly enforce sanitary regulations	

AREAS	COMMON CONCERNS	BASILAN	LANAO DEL SUR/ MARAWI	MAGUINDANAO	SULU	TAWI-TAWI
Irrigation/water systems	Lack of irrigation systems		Construction of irrigation systems in Salikhata; Lumba-Bayabao; Camang Rugiro-Bubong; Ragain/Buadiposo  NIA to solicit IDB & ADB funds		Develop Seit Lake in Panamao	Tap private sector in project site identification
Ports	Construction of seaports in coastal areas		Ask Congress support to develop coastal areas	RPMA to organize a multi-sectoral group to monitor shipping companies and prevent the high cost of cargo shipping		Expand wharf facilities in Bongao, Sibutu, Cagayan de Tawi-tawi, Panglima Sugala and Simunul
Post-harvest facilities	Lack of cold storage facilities		Ask congressional support to develop fishing ports in Ganassi, Lumbatan, Tamparan, Ditsain Ragain			Request BFAR-ARMM to prioritize construction of cold storage facilities
Power	Provision/ upgrading of electricity supply		Ask Congress support  Lower the power rate in Lanao del Sur/ Marawi where hydro-power plant is located			
Roads/ Bridges	Construction/ rehabilitation of farm to market roads		Quezon bridge/ pumping Mandaya – eng'g battalion	Upgrade/ widen road network		DPWH-ARMM to prioritize construction of farm-to-market roads

AREAS	COMMON CONCERNS	BASILAN	LANAO DEL SUR/ MARAWI	MAGUINDANAO	SULU	TAWI-TAWI
Telecoms	Upgrading of telecom system		Install additional 2,500 lines (to be requested from NALTEL & DOTC)	Request telecom companies to install cell sites in Polloc		
Water	High cost of water rates/ improvement of water system / development of new water sources		Upgrade/rehabilitate Marawi City Water District by requesting additional financial grant from LWUA			Upgrade water system of Bongao Water District
Environmental protection			LGUs/ DENR strictly enforce environmental laws			
Governance	Red tape and corruption  Establishment of a local watchdog group to be organized by the Chamber of Commerce to monitor red tape & corruption in the government  Lack of efficient land titling process		Prevent political interference in business activities to reduce rampant red tape and corruption	Establish a one-stop licensing center to reduce red tape in business licensing	Establish NIA, CDA, & RBOI offices in Sulu  Develop Sulu as the seat of ARMM government	Establish a one-stop action center
Peace & order	Unstable peace and order condition		LGUs solve kidnappings, drugs, carjacking & extortion		Strengthen security measures  Reactivate Provincial Peace and Order Council	AFP/PNP to address piracy problem

AREAS	COMMON CONCERNS	<i>BASILAN</i>	LANAO DEL SUR/ MARAWI	MAGUINDANAO	SULU	TAWI-TAWI
Safety				Provide firefighting facilities in Parang		
Transport	Expansion of airports and seaports			Consider dev't of water transport  Conduct dialogue with airline companies to increase air transportation		
Fishery	Development of the fishery sector	Intensify implementation of fisheries law to stop illegal fishing		MARINA, PCG, and local PNP to strictly implement fisheries code	Create Seaweeds Authority	

## **APPENDIX C. THE REGIONAL ECONOMIC ZONE AUTHORITY LAW**

### **SALIENT FEATURES**

#### ▪ **Characteristics of ecozones**

Under the law, ecozones shall be developed into decentralized, self-reliant and self-sustaining business centers with minimum government intervention. As business centers, each ecozone shall develop its own industrial, commercial/trading, agro-industrial, tourism, banking, financial and investment sectors. Each ecozone shall be provided with transportation, telecommunications and other needed facilities.

The ecozones will be treated as separate customs territories which shall enjoy duty-free importation of raw materials, capital, equipment, and other goods and commodities. However, export of goods from the ecozone to other parts of the country shall be subjected to customs duties and taxes under the Philippine law.

#### ▪ **Site identification**

The ARMM ecozone law identified “growth zones” in each of the ARMM provinces as potential ecozone sites “to ensure the viability and geographical dispersal of ecozones” within the ARMM. The development of these areas could be initiated by either the private sector, the local government, or the regional government.

Ecozones may be established outside the pre-identified “growth zones” if the proposed areas conform with a set of criteria which includes, among others, the availability of skilled and trainable labor force, existence of required infrastructure, and presence of anti-smuggling measures. If a proposed site does not meet the law’s criteria, an ecozone may still be put up in it as long as its development is through local government and/or private sector initiative (under the schemes allowed in the national Build-operate-transfer Law) without any financial burden on the part of the ARMM regional government.

#### ▪ **Functions of the Regional Economic Zone Authority (REZA)**

*Under the law, the REZA has the following primary functions: operate ecozones, regulate ecozone locators, and coordinate with LGUs over ecozone development plans and construction of required infrastructure facilities. The REZA is allowed to enter into joint venture and build-operate-transfer contracts with private firms in the construction of needed infrastructure and other facilities for the business operation of ecozone investors, including the provision of shipping and airport operation services. In fact, the law orders the regional government and the REZA to encourage and facilitate private sector participation in the construction and operation of public utilities and infrastructure within the ecozones, using the schemes allowed by the BOT Law or approved by the Regional Legislative Assembly (RLA).*

*For privately-owned ecozones, the law allows them to exercise autonomy but mandates the REZA to monitor the operators’ implementation of incentives.*

*Attached to the ARMM-Department of Trade and Industry (DTI), the REZA will be headed by an executive director who will be appointed by the Regional Governor.*

The law also provides for the creation of the 15-member REZA board which shall set the policies for the establishment and operation of ecozones, review proposals and endorse the establishment of ecozones (final approval rests on the Regional Governor), and regulate the operation and maintenance of ports, airfields, utilities and infrastructure in the ecozones. The Board is chaired by the ARMM-DTI Secretary and is comprised by representatives from selected government agencies, labor sector, and ecozone investors.

An advisory body shall also be created to advise the ecozone management on policy initiatives and settlement of labor problems.

▪ **Polloc ecozone as “model ecozone” for ARMM**

A task force is created to oversee the development of a “model ecozone”, in coordination with the REZA, in Polloc, Parang in the province of Maguindanao. The Polloc port will be converted into a Freeport and will be the core area of the Polloc “model ecozone”.

▪ **Foreign investment**

Foreign-owned companies are allowed to set up enterprises in the ecozones, either by themselves or through joint venture with Filipinos (in whatever proportion) in any industry within the ecozone. The ecozone management, with the approval of REZA, may require minimum capitalization for any company proposing to locate in the ecozone.

▪ **Incentives for investors/locators**

*Ecozone locators are entitled to the same incentives provided by the national Export Processing Zone Authority, the ARMM Regional Board of Investments, and other incentives to be provided by the RLA through an ARMM Omnibus Investment Code. Tax credits will be granted for exporters using local raw materials, as provided for in the national Export Development Act of 1994. Aside from these incentives, the REZA is allowed to grant the following incentives to registered ecozone enterprises:*

1. income tax holiday or net operating loss carryover based on a category of business activities;
2. up to 100% exemption from customs duties for the importation of capital equipment, spare parts, product consumables or those required for pollution abatement by registered export-oriented enterprises;
3. duty-free importation of breeding stocks and genetic materials “reasonably” needed by any registered enterprise and duly approved by the REZA Board;
4. exemption from real property tax on machinery and equipment; and
5. exemption from local taxes and licenses (except for real property taxes on land owned by ecozone developers).

*To compensate for the local and national tax exemption, all business enterprises in the ecozones are required to remit a certain percentage of their gross revenues to the autonomous regional government and the municipalities/cities where the ecozones are located. A development fund to be managed by the provincial government was appropriated to finance projects in other municipalities. The REZA will also get a certain portion for its development projects within the ecozone.*

▪ **Protection of domestic industry**

Goods manufactured in the ecozones could be sold in the domestic market, subject to appropriate taxes. But the REZA would have to draw up a negative list of industries that are not allowed to sell their products locally in order to protect sensitive domestic industries. The negative list is to be updated regularly by REZA, in coordination with the ARMM-DTI.

**GEM'S COMMENTS**

• **Favorable features of the law**

1. Uses a flexible, demand driven framework
2. Provides incentives applicable to ARMM
3. Incorporates fiscal incentives at par with other special ecozones in the country
4. Facilitates the legal registration of firms



5. Applies favorable immigration rules for foreign investors
6. Imposes liberal rules for foreign employees
7. Recognizes the role of the private sector and foreign investors in the development of an ecozone

- **Major Concerns**

**Foreign ownership in the ecozone**

While ownership of free zone facilities is allowed under the newly approved law, it is silent on foreign ownership issues. GEM believes that foreign ownership of buildings and facilities should be permitted in ARMM special ecozone so that foreign locators themselves could put up facilities that would meet their own requirements. This view is consistent with research results which identified free zone property ownership and low land value as necessary elements in developing a sustainable export oriented economic free zone.

GEM argues that the addition of a provision permitting foreign ownership in ARMM ecozone does not contradict the ARMM Organic Act. It cited Section 2, Article 12 of the Act which mandates the regional government to support the establishment of ecozones to attract local and foreign investment. Section 4, Article 12 also allows the regional government to grant, if necessary, additional powers to the Regional Economic Zone Authority (REZA) to impose measures that would *“meet the special circumstances”* of ARMM.

**Site identification**

The law enumerated ARMM areas which could be potential ecozone sites. But REZA is still allowed to consider other areas only after the required feasibility and engineering studies have been completed, and if the proposed areas comply with a specified set of criteria. GEM believes that the law should not identify potential sites. Instead, all proposed and potential sites should be considered and evaluated using the same method and the same set of objective and verifiable criteria. Furthermore, commitments by private sector to invest should be one of the criteria. The private sector should be the lead in identifying potential sites, with limited involvement of the government. The government should only be involved in providing strategic infrastructure that would promote the development of ecozones.

The law also promotes wide geographic dispersion of ARMM ecozones which GEM believes is not feasible and cost effective, given the current state of ARMM's infrastructure and communications system.

RLA Bill No. 34  
Republic of the Philippines  
Autonomous Region in Muslim Mindanao  
**REGIONAL LEGISLATIVE ASSEMBLY**  
Cotabato City

**FOURTH LEGISLATIVE ASSEMBLY**  
(Second Regular Session)

**[MUSLIM MINDANAO AUTONOMY ACT NO. 154]**

*Begun and Held in Cotabato City, on Monday, the twenty-eight day of October, two thousand two.*

**AN ACT PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISM FOR THE CREATION, OPERATION, ADMINISTRATION, AND COORDINATION OF SPECIAL ECONOMIC ZONES IN THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM), CREATING FOR THIS PURPOSE, THE ARMM REGIONAL ECONOMIC ZONE AUTHORITY (REZA), AND FOR OTHER PURPOSES**

*Be it enacted by the Regional Legislative Assembly in session assembled:*

**CHAPTER I**

**PURPOSES AND OBJECTIVES; ESTABLISHMENT AND NATURE OF SPECIAL ECONOMIC ZONES; COORDINATION WITH OTHER SIMILAR SCHEMES**

SECTION 1. **Title.** - This Act shall be known and cited as “ The ARMM Special Economic Zone Act of **2003**.”

SECTION 2. **Declaration of Policy.** - It is the declared policy of the autonomous regional government to translate into practical realities the following State policies and mandates in Republic Act No. 9054 or the “Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao.”, namely:

**“Preferential Rights of Inhabitants and Their Safeguards.** - The autonomous region shall provide manpower training programs, create livelihood and job opportunities, allocate equitable preferential rights to its inhabitants, and adopt laws that will safeguard the rights of workers”. (Section 9, Article III)

**“Economic Zones, Centers and Ports.** – The Regional Government shall encourage, promote and support the establishment of economic zones, industrial centers, ports in strategic areas, and growth centers to attract local and foreign investments and business enterprises”. (Section 2, Article XII)

a. **Incentives for Investors.** – The Regional Assembly may by law grant incentives to investors in the autonomous region. The central government or national government may likewise grant incentives to

**investors in the autonomous region in addition to those provided by the Regional Government.”(Section 3, Article XII)**

- b. **“Regional Economic Zone Authority; Freeports.** – The Regional Government may establish a regional economic zone authority in the autonomous region. The Regional Economic Zone Authority shall have similar powers as the Philippine Economic Zone Authority and consistent with the Special Economic Zone Act of 1995. The Regional Assembly may provide such additional powers and functions to the Regional Economic Zone Authority as may be necessary to meet the special circumstances of the autonomous region.

Once the Regional Economic Zone Authority is created by a Regional Assembly legislation, the Philippine **Economic** Zone Authority shall no longer authorize any other economic zone within the autonomous region. Any corporation, firm, or entity established within the autonomous region, by authority of the Philippine **Economic** Zone Authority, shall be placed under the jurisdiction of the Regional Economic Zone Authority and shall continue to enjoy the benefits granted to it by the Philippine Economic Zone Authority.” (Section 4, Article XII)

In pursuance of these policies, the autonomous regional government shall actively encourage, promote, induce and accelerate a sound and balanced industrial, economic and social development of the autonomous region in order to provide jobs to the people especially those in the rural areas, increase their productivity and their individual and family income, and thereby improve the level and quality of their living condition through the establishment, among others, of special economic zones and free ports in suitable and strategic locations in the autonomous region and through measures that shall effectively attract legitimate and productive foreign investments.

**SECTION 3. Purposes, Intent and Objectives.** – It is the purpose, intent and objectives of this Act:

- a. To establish the legal framework and mechanisms for the integration, coordination, planning and monitoring of special economic zones, industrial estates/parks, export processing zones and other economic zones;
- b. To transform selected areas in the autonomous region country into highly developed agro-industrial, industrial, commercial, tourist, banking, investment, and financial centers, where highly trained workers and efficient services will be available to commercial enterprises;
- c. To promote the flow of investors, both foreign and local, into special economic zones which will generate the employment opportunities and establish backward and forward linkages among industries in and **around** the economic zones;
- d. To stimulate the repatriation of Filipino capital by providing attractive climate and incentives for business activity;

- e. To promote financial and industrial cooperation between the Autonomous Region in Muslim Mindanao (ARMM) and Industrialized countries through technology-intensive industries that will modernize the Autonomous Region's industrial sector and improve productivity levels by utilizing new technological and managerial know-how; and
- f. To vest the special economic zones on certain areas thereof with the status of a free port and separate customs territory within the framework of the Constitution, the Organic Act of the Autonomous Region and the national sovereignty and territorial integrity of the Philippines.

**SECTION 4 Definition of Terms.** – For purposes of this Act, the following definitions shall apply to the following terms:

- a. **Special Economic Zones (SEZ)** – hereinafter referred to as the ECOZONES, are selected areas, with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist/recreational, commercial, banking, investment and financial centers. An ECOZONE may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), free trade zones, and tourist/recreational centers.
- b. **Industrial Estates (IEs)** - refers to a tract of land subdivided and developed according to a comprehensive plan under a unified continuous management and with provisions for basic infrastructure and utilities, with or without pre-built standard factory buildings and community facilities for the use of the community of industries.
- c. **Export processing zone (EPZ)** – a specialized industrial estate located physically and / or administratively outside customs territory, predominantly oriented to export production. Enterprises located in export processing zones are allowed to import capital equipment and raw materials free from duties, taxes and other import restrictions.
- d. **Free trade zone** – an isolated **policed** area adjacent to a port of entry (as a seaport) and / or airport where imported goods may be unloaded for immediate transshipment or stored, repacked, sorted, mixed, or otherwise manipulated without being subject to import duties. However, movement of these imported goods from the free-trade area to a non-free-trade area in the country shall be subject to import duties, which may be reduced by the Regional Economic Zone Authority (REZA), by requiring the payment to the Bureau of Customs of such reduced import duties or tariff prior to movement from free trade to non-free trade areas.

Enterprises within the zone are granted preferential tax treatment, reduced import duties and tariff, and where immigration laws are more lenient.

**SECTION 5. Establishment of ECOZONES.** – To ensure the viability and geographic dispersal of ECOZONES through a system of prioritization, the following areas are initially identified as ECOZONES:

- (a) Areas within those identified as Special Development Projects/Growth Zones by the Department of Trade and Industry – Autonomous Region in Muslim Mindanao (DTI-ARMM):
  - 1) Parang and other potential areas in the Province of Maguindanao
  - 2) Jolo and other potential areas in the Province of Sulu
  - 3) Bongao and other potential areas in the Province of Tawi-Tawi
  - 4) The Entire Province of Basilan
  - 5) Marawi City, Malabang and other potential areas in the province of Lanao del Sur.
  - 6) Any private industrial estate which shall voluntarily apply for conversion into an ECOZONE.

These areas shall be developed through any of the following schemes:

- (i) Private initiative;
- (ii) Local government initiative with the assistance of the autonomous regional government; and
- (iii) Autonomous regional government initiative.

The metes and bounds of each ECOZONE are to be delineated and more particularly described in a proclamation to be issued by the Regional Governor of the ARMM, upon the recommendation of the Regional Economic Zone Authority (REZA), which shall be established under this Act, in coordination with the municipal and/or city council and/or the Regional Land Use Committee.

**SECTION 6. Criteria for the Establishment of Other ECOZONES.** – In addition to the ECOZONES identified in Section 5 of this Act, other areas may be established as ECOZONES in a proclamation to be issued by the Regional Governor of the ARMM subject to the evaluation and recommendation of the REZA, based on a detailed feasibility and engineering study, which preferably conform to the following criteria:

- (a) The proposed area must be identified as a regional growth center in the ARMM Development Framework Plan or by the Regional Economic and Development Planning Board (REDPB);
- (b) The existence of required infrastructure in the proposed ECOZONE, such as roads, railways, telephones, ports, airports, etc., and the suitability and capacity of the proposed site to absorb such improvements;
- (c) The availability of water source and electric power supply for use of the ECOZONE;

- (d) The extent of vacant lands available for industrial and commercial development and future expansion of the ECOZONE as well as of lands adjacent to the ECOZONE available for development of residential areas for the ECOZONE workers;
- (e) The availability of skilled, semi-skilled and non-skilled trainable labor force in and around the ECOZONE;
- (f) The area must have a significant incremental advantage over the existing economic zones and its potential profitability can be established;
- (g) The area must be strategically located; and
- (h) The area must be situated where controls can easily be established to curtail smuggling activities.

Other areas which do not meet the foregoing criteria may be established as ECOZONES: *Provided*, That the said area shall be developed only through local government and/or private sector initiative under any of the schemes allowed in Republic Act No. 6957 (the build-operate-transfer law) **or otherwise**, and without any financial exposure on the part of the autonomous regional government; *Provided further*, That the area can be easily secured to curtail smuggling activities; *Provided further*, That the area shall be one contiguous area, as far practicable; *Provided, finally*, That after five (5) years the area must have attained a substantial degree of development, the indicators of which shall be formulated by the REZA.

**SECTION 7. ECOZONE to be a Decentralized Agro-Industrial, Industrial, Commercial/Trading, Tourist, Investment and Financial Community.** – Within the framework of the constitution, the interest of national sovereignty and territorial integrity of the Republic, ECOZONE shall be developed, as much as possible, into a decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-industrial, tourist, banking, financial and investment center with minimum government intervention. Each ECOZONE shall be provided with transportation, telecommunications, and other facilities needed to generate linkage with industries and employment opportunities for its own inhabitants and those of nearby towns and cities.

The ECOZONE shall administer itself on economic, financial, industrial, tourism development and such other matters within the exclusive competence of the government.

The **REZA through its principal agent, the Executive Director or ECOZONE** may establish mutually beneficial economic relations and enter into economic agreements with other entities within the country, or, subject to the administrative guidance of the Regional Governor and/or the Regional Secretary of the Department of Trade and Industry-ARMM, as authorized by the Regional Governor, with foreign countries or entities, in **fulfillment of** Section 11, Article IX of Republic Act No. 9054.

Foreign citizens and companies owned by non-Filipinos in whatever proportion may set up enterprises in the ECOZONE, either by themselves or in joint venture with Filipinos in any sector of industry, international trade and commerce within the ECOZONE. Their assets, profits and other legitimate interests shall be protected:

*Provided*, That the ECOZONE through the REZA may require a minimum investment for any ECOZONE enterprise in freely convertible currencies: *Provided, further*, That the new investment shall fall under the priorities, thrusts and limits provided for in this Act.

**SECTION 8. ECOZONE to be Operated and Managed as Separate Customs Territory.**- The ECOZONE shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the ECOZONE, as well as provide incentives such as tax and duty-free importations of raw materials, capital, equipment, **other goods** and commodities. However, exportation or removal of goods from the territory of the ECOZONE to the other parts of Philippine territory shall be subject to customs duties and taxes under the Philippine Customs and Tariff Code and other relevant tax laws, *Provided, however*, That the REZA may prescribe reduced tariff, customs, import duties and other taxes for such goods moving from the ECOZONE to other parts of the country, as incentive to locators within the ECOZONE and other business enterprises registered with the REZA, by requiring the payment to the Bureau of Customs or the Bureau of Internal Revenue (BIR) of such reduced tariff, customs, import duties and other taxes prior to movement from the free trade to the non-free trade areas.

The REZA is hereby vested with the authority to issue Certificates of Origin for products manufactured or processed in each ECOZONE in accordance with the prevailing rules of origin, and the pertinent regulations of the Department of Trade and Industry-ARMM.

The Regional Secretary of the Department of Trade and Industry-ARMM shall issue Certificate of Authority to Import (CIA) and/or Import Commodity Clearance (ICC) in accordance with its administrative issuances, department orders or departmental rules and regulations to entities or business enterprises doing business in the ARMM, *Provided, however*, That the Executive Director of the REZA, in case of perishable goods or imminent loss to the business enterprise, may issue provisional Certificate of Authority to Import and/or Import Commodity Clearance to entities or business enterprises doing business in or with the ECOZONE and/or registered with the REZA, for confirmation or validation of the Regional Secretary.

In the case of Free Trade Zone areas, no import or export permit is required and only the cargo manifest or other documents for identification purposes shall be necessary for entry or removal. However, all illegal and contraband items are subject to seizure or forfeiture and the owners/possessors thereof are subject to criminal prosecution.

**SECTION 9. Defense and Security.** – The defense of the ECOZONE and the security of its perimeter fence shall be the responsibility of the autonomous regional government in coordination with the REZA. Military, police and other security forces sent for the purpose of defense shall not interfere in the internal affairs of any of the ECOZONE and expenditure for these military forces shall be borne by the national government. The REZA may provide and establish the ECOZONES' internal security and firefighting forces.

**SECTION 10. Immigration.** – Any investor within the ECOZONE whose initial investment **in cash or equipment** shall not be less than **Seventy Five** Thousand Dollars (\$ 75,000), his/her spouse and dependent children under twenty-one (21)

years of age shall be granted **by the REZA temporary work and residency visas** within the ECOZONE **for so long as his investment in the ECOZONE subsists. For this purpose he should submit an annual report in the form duly prescribed for the purpose, to prove that he has maintained his investment in the ARMM. Should said alien withdraw his investment from the ARMM the visa issued to him shall automatically expire.** They shall have freedom of ingress and egress to and from the ECOZONE without any need of special authorization from the Bureau of Immigration.

The REZA shall issue working visas renewable every two (2) year to foreign executives and other aliens, possessing highly-technical skills which no Filipino within the ECOZONE possesses, as certified by the *Department of Labor and Employment-ARMM*. The names of aliens granted **temporary** resident and working visas by the REZA shall be reported to the Bureau of Immigration within thirty (30) days after issuance thereof.

## **CHAPTER II**

### **GOVERNING STRUCTURES**

**SECTION 11. *The Regional Economic Zone Authority (REZA) Board.*** *There is hereby created a body corporate to be known as the Regional Economic Zone Authority (REZA) attached to the Department of Trade and Industry – ARMM. The board shall have an executive director who shall be appointed by the Regional Governor upon recommendation of the Regional Secretary of the DTI-ARMM, to serve for a term of six (6) years, unless sooner removed for cause, with provision for re-appointment. In case of removal for cause, the replacement shall serve only the unexpired portion of the term. The executive director shall be of proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, accounting, management or their equivalent, and with at least five (5) years relevant working experience, preferably in the field of financial and legal management or public administration and with civil service eligibility, or its equivalent (R.A.1080).*

The executive director shall be assisted by three (3) deputy directors each for policy and planning, administration and operation, who shall be appointed by the Regional Governor, upon the recommendation of the REZA Board, to serve for a term of six (6) years each, unless sooner removed for a cause, on a staggered basis; such that on the first year, only one deputy director shall be appointed, on the second year another deputy director shall be appointed and so on until the positions of deputy directors shall be filled up. The deputy directors shall be of proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, accounting, management or their equivalent, and with a five (5) year relevant working experience and civil service eligibility.

The Board shall be composed of fifteen (15) members as follows: the ARMM Regional Secretary of the Department of Trade and Industry as Chairman, the Executive Director of the Regional Economic Zone Authority as Vice-Chairman, the ARMM Regional Secretaries of the Department of Labor and Employment, the Department of Interior and Local Government, the Department of Environment and Natural Resources, the Department of Agriculture, the Department of Public Works and Highways, the Department of Transportation



and Communication, ARMM Regional Treasurer, the Chairman of the Regional Board of Investments, the Executive Director of the ARMM Regional Planning and Development Office, three (3) members of the Regional Legislative Assembly (RLA), one (1) representative from the labor sector, and one (1) representative from the investor/business sector in the ecozone to be appointed by the Regional Governor. In case of the unavailability of the Regional Secretary of the Department of Trade and Industry-ARMM to attend a particular board meeting, the Executive Director of the REZA shall act as Chairman.

In case urgent action is needed or in the exigency of the service, the Executive Director may convene or call in executive session or meeting a majority of the members of the Board. The decisions taken in executive session or meeting shall stand unless revoked by the regular Board. The members of the Board who are cabinet secretaries except the Chairman, may designate their permanent representatives in cases of absence or unavailability. The REZA Management Committee headed by the Executive Director is hereby created and the REZA Board may delegate some of its functions thereto, in appropriate cases, in which case, the performance of such delegated functions shall no longer require Board approval and confirmation.

Members of the Board shall receive a per diem of not less than the amount equivalent to the representation and transportation allowances of the members of the Board and / or as maybe determined by the Department of Budget and Management: *Provided, however,* That the per diem collected per month does not exceed the equivalent of four (4) meetings.

**SECTION 12. Functions and Powers of the REZA Board.** –The REZA Board shall exclusively be a policy making body, restricted to policy-making, and shall not interfere in the day-to-day or administrative operations of the REZA or in the formulation and enforcement of regulations implementing its policies, which operations and regulations are the primary responsibility of the Executive Director. Hence, the REZA Board shall have the following functions and powers:

- (a) Set the general policies on the establishment and operations of the ECOZONES, industrial estates, export processing zones, free trade zones, and the like;
- (b) Review proposals for the establishment of ECOZONES based on the set criteria under Section 6 and endorse to the Regional Governor the establishment of the ECOZONES, industrial estates, export processing zones, free trade zones and the like. Thereafter, it shall facilitate and assist in the organization of said entities;
- (c) Regulate and undertake the establishment, operation and maintenance of **ports, airfields**, utilities, other services and infrastructure in the ECOZONE, such as heat, light and power, water supply, telecommunication, transport, print and media facilities, toll roads and bridges, port services, etc., and to fix just, reasonable and competitive rates, charges and fees therefore;
- (d) Approve the annual budget of the REZA and the ECOZONE development plans, with concurrence of the Regional Governor, which budget shall be appropriated by the Regional Legislative Assembly. In case of delay in the

approval of the annual budget of the REZA, it may operate on the basis of the budget of the preceding year until such time as the annual budget is approved;

- (e) Issue rules and regulations to implement the provisions of this Act in so far as its power and functions are concerned;
- (f) Exercise its powers and functions as provided for in this Act; and
- (g) Render annual reports to the Regional Governor and the Regional Legislative Assembly.

**SECTION 13. General Powers and Functions of the Authority** – The REZA shall have the following powers and functions **as exercised through its agents and the Executive Director**:

- (a) To operate, administer, manage and develop the ECOZONE according to the principles and provisions set forth in this Act;
- (b) To register, regulate and supervise the enterprises in the ECOZONE in an efficient and decentralized manner;
- (c) To coordinate with local government units and exercise general supervision over the development, plans, activities and operations of the ECOZONES, industrial estates, export processing zones, free trade zones, and the like;
- (d) In coordination with the local government units concerned and appropriate agencies, to construct, acquire, own, lease, operate and maintain on its own or through contract, franchise, license, bulk purchase from the private sector and build-operate-transfer scheme or joint venture, adequate facilities and infrastructure, such as light and power systems, water supply and distribution systems, telecommunication and transportation, print and media facilities, buildings, structures, warehouses, roads, bridges, ports and other facilities for the operation and development of the ECOZONE, including shipping and related business, stevedoring and port terminal services or concessions, incidental thereto and airport operations in coordination with the Civil Aeronautics Board, and fix just and reasonable rates, fares, charges and other prices therefore;
- (e) To create, operate and/or contract to operate such agencies and functional units or offices of the authority as it may deem necessary;
- (f) To adopt, after and use a corporate seal; make contracts, lease, own or otherwise dispose of personal or real property; sue and be sued; and otherwise carry out its duties and functions as provided for in this Act;
- (g) To coordinate the formulation and preparation of the development plans of the different entities mentioned above;
- (h) To coordinate with the Regional Planning and Development Office (RPDO), the Department of Trade and Industry – ARMM and the local government

units and appropriate government agencies for policy and program formulation and implementation;

- (i) To monitor and evaluate the development and requirements of entities in subsection (a) and recommend to the local government units or other appropriate authorities the location, incentives, basic services, utilities and infrastructure required or to be made available for said entities; and

Within the limitation provided by law, to raise and/or borrow the necessary funds from local and international financial institutions and to issue bonds, promissory notes and other securities for that purpose and to secure the same guarantee, pledge, mortgage, deed of trust, or assignment of its properties held by the REZA for the purpose of financing its projects and programs within the framework and limitations of this Act.

**SECTION 14. Powers and Functions of the Executive Director.** – The executive director shall be the overall coordinator of the policies, plans and programs of the ECOZONES. As such, he shall provide overall supervision over and general direction to the development and operations of these ECOZONES. He shall determine the structure and the staffing pattern and personnel complement of the REZA and establish provincial offices, when necessary, subject to the approval of the REZA Board.

In addition, he shall have the following specific powers and responsibilities:

- (a) To safeguard all the lands, buildings, records, monies, credits and other properties and rights of the ECOZONES;
- (b) To ensure that all revenues of the ECOZONE are collected and applied in accordance with its budget;
- (c) To ensure that the investors/firms, **industrial estates** and employees of the ECOZONES are properly discharging their respective duties;
- (d) To give such information and recommend such measures to the Board, as he shall deem advantageous to the ECOZONE;
- (e) To submit to the Board, the ongoing and proposed projects, work and financial program, annual budget of receipts, and expenditures of the ECOZONE;
- (f) To represent the ECOZONE in all its business matters and sign on its behalf after approval of the Board, all its bonds, borrowings, contracts, agreements and obligations made in accordance with this Act;
- (g) To acquire jurisdiction, as he may deem proper, over the protests, complaints, and claims of the residents and enterprises in the ECOZONE concerning administrative matters;
- (h) To recommend to the Board the grant, approval, refusal, amendment or termination of the ECOZONE franchises, licenses, permits, contracts, and agreements in accordance with the policies set by the board;

- (i) To require owners of houses, buildings or other structures constructed without the necessary permit whether constructed on public or private lands, to remove or demolish such houses, buildings, structures within sixty (60) days after notice and upon failure of such owner to remove or demolish such house, building or structure within said period, the executive director or his authorized representative may summarily cause its removal or demolition at the expense of the owner, any existing law, decree, executive order and other issuances or part thereof to the contrary notwithstanding;
- (j) To take such emergency measures as may be necessary to avoid fires, floods and mitigate the effects of storms and other natural or public calamities;
- (k) To accept any local or foreign investment, business or enterprise in the ECOZONE, subject only to such rules and regulations to be promulgated by the REZA without prejudice to the nationalization requirements provided for in the Constitution;
- (l) To prepare and make out plans for the physical and economic development of the ECOZONE, including zoning and land subdivision, issue such rules and regulations which shall be submitted to the Board for its approval, and;
- (m) To perform such other duties and exercises such powers as may be prescribed by the Board, and to implement the policies, rules and regulations set by the REZA.

**SECTION 15. Administration of each ECOZONE.** – Except for privately-owned, managed or operated ECOZONES, each ECOZONE shall be organized, administered, managed by the ECOZONE executive committee composed of the following:

- a) The executive director of the REZA or any of his deputy directors.
- b) The administrator who shall be appointed by the REZA Board upon recommendation of the executive director, and who shall be responsible for the day to day operations of the ECOZONE.
- c) One (1) deputy administrator to be appointed by the Board upon recommendation of the executive director.

The administrator and the deputy administrator shall be of proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, accounting, management, engineering or their equivalent, with at least four (4) years relevant working experience and with civil service eligibility. The residents of the area, where the ECOZONE is located and/or those with graduate level degrees, such as Masters in Public Administration, or professional board passers shall be given priority in hiring.

An ECOZONE advisory body shall be created with the following members:

- (1) The president of the association of investors in the ECOZONE;

- (2) The governor of the province where the **ECOZONE** is located, **who shall be the Chairman of the body**;
- (3) The mayor/s of the municipality/ies or city/ies where the ECOZONE is located;
- (4) The president of an accredited labor union in the ECOZONE;
- (5) The representatives of the business sector in the periphery of the ECOZONE; and
- (6) Representatives of the REZA.

The ECOZONE advisory body shall have the following functions:

- a. Advise the ECOZONE management on matters pertaining to policy initiatives; and
- b. Assist the ECOZONE management in settling problems arising between labor and any enterprise in the ECOZONE.

Privately-owned ECOZONES shall retain autonomy and independence but shall be monitored by the REZA for the implementation of incentives and operations for adherence to the law.

**SECTION 16. Personnel.** – The REZA Board of Directors shall provide for an organization and staff of officers and employees of the REZA, and upon recommendation of the executive director with the approval of the Regional Secretary of the Department of Trade and Industry-ARMM, appoint and fix the remunerations and other emoluments: *Provided*, That the Board shall have exclusive and final authority to promote, transfer, assign and reassign officers of the REZA, any provision of existing law to the contrary notwithstanding: *Provided, further*, That the executive director may carry out removal of such officers and employees.

All positions in the REZA shall be governed by a compensation, position classification system and qualification standards approved by the executive director with the concurrence of the Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan may be comparable with the prevailing compensation plans in the Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), Bases Conversion and Development Authority (BCDA) and the private sector and shall be subject to periodic review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. The REZA shall therefore be exempt from existing laws, rules, and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its systems conform as closely as possible with the principles under Republic Act No. 6758.

The REZA officers and employees including all Members of the Board shall not engage directly or indirectly in partisan activities or take part in any election, except to vote.

No officer or employee of the REZA subject to Civil Service laws and regulations shall be removed or suspended except for cause, as provided by law.

**SECTION 17. Investigation and Inquiries.** – Upon a written formal complaint made under oath, which on its face provides reasonable basis to believe that some anomaly or irregularity might have been committed, the REZA or the administrator of the ECOZONE concerned, shall have the power to inquire into the conduct of firms or employees of the ECOZONE and to conduct investigations, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidences: *Provided*, That to arrive at the truth, the investigator (s) may grant immunity from prosecution to any person whose testimony or whose possessions of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by him or under the authority of the REZA or the administrator of the ECOZONE concerned.

**SECTION 18. Prohibition Against Holding Any Other Office.** – The executive director, deputy directors, administrators, officials and staff or assistants of the REZA shall not hold any other office or employment within or outside the REZA during their tenure. They shall not, during their tenure, directly or indirectly, practice any profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the REZA or autonomous regional government, or any subdivision, agency, or instrumentality thereof, including any government-owned-controlled corporation, or its subsidiary.

**SECTION 19. Disbursement of Funds.** – No money shall be paid out of the funds of any ECOZONE except in pursuance of the budget as formulated and approved by the REZA.

**SECTION 20. Full Disclosure of Financial and Business Interests.** – Every member of the Board of the REZA, the executive director, the deputy directors, administrators, deputy administrators and their staff shall, upon assumption of office, make full disclosure of their financial and business interests, and submit their respective statements of assets and liabilities annually to the Office of the Ombudsman.

### **CHAPTER III**

#### **OPERATIONS WITHIN THE ECOZONE**

**SECTION 21. Development Strategy of the ECOZONE.** – The strategy and priority of development of each ECOZONE established pursuant to this Act shall be formulated by the REZA, in coordination with the Department of Trade and Industry-ARMM and the Regional Economic & Development Planning Board: *Provided*, That such development strategy is consistent with the priorities of the autonomous regional government as outlined in the ARMM Development Framework Plan.

It shall be the policy of the autonomous regional government and the REZA to encourage and provide incentives and facilitate private sector participation in the construction and operation of public utilities and infrastructure in the ECOZONE, using

any of the schemes allowed in Republic Act No. 6957 (the build-operate-transfer law) or such other schemes as the Regional Legislative Assembly may adopt into law.

**SECTION 22. Survey of Resources.** – The REZA shall, in coordination with appropriate authorities and neighboring cities and municipalities, immediately conduct a survey of the physical, natural assets and potentialities of the ECOZONE areas under its jurisdiction.

**SECTION 23. Fiscal Incentives.** – Business establishments operating within the ECOZONE shall be entitled to the fiscal incentives as provided for under Presidential Decree No. 66, the law creating the Export Processing Zone Authority, or those provided under Book VI of Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, or the fiscal incentives provided by the ARMM Regional Board of Investments and such other incentives as may be provided by the Regional Legislative Assembly in an ARMM Omnibus Investment Code, or otherwise.

Furthermore, tax credits for exporters using local materials as inputs shall enjoy the same benefits provided for in the Export Development Act of 1994.

The fiscal incentives to business enterprises operating within the ECOZONE shall be evaluated and approved by the REZA Board.

**Aside from the incentives mentioned in the preceding paragraphs, the REZA may grant the following incentives to registered enterprises to the extent of the activity/project, or as may be applicable:**

**A. INCOME TAX HOLIDAY OR NET OPERATING LOSS CARRYOVER**

**INCOME TAX HOLIDAY (ITH)** – Registered enterprises shall be entitled to an income tax holiday from the start of their commercial operation to the extent of their activity under the following categories:

**Category A** – All activities listed in the ARMM Investment Priority Plan, which includes inter alia, domestic-oriented activities located within the ARMM shall be entitled to four (4) years income tax holiday.

*Category B – Export-oriented activities located within the ARMM or domestic oriented activities producing/rendering distinct or new products/services shall be entitled to six (6) years income tax holiday.*

**Category C – Export-oriented activities or domestic oriented activities within the ARMM with (a) backward and forward linkages or strong potential for export development; and (b) listed in the ARMM Investment Priority Plan shall be entitled to eight (8) years income tax holiday.**

Enterprises with existing operations that qualify for registrations shall be limited to their incremental capacities and/or incremental sales value for ITH availment.

*Category D – The foregoing categories notwithstanding, an additional four (4) years shall be granted for “strategic projects”. Strategic Projects refer to activities, which exhibit high social economic returns and comply with any of the following conditions:*

- (a) Project would create high value-added;
- (b) Project would generate sizable employment;
- (c) Project would require large investments; or
- (d) Project would use new and internationally accepted high level of technology.

*A project shall be determined and approved as “STRATEGIC” by a decision of the REZA Board.*

NET OPERATING LOSS CARRYOVER – The net operating loss of the business or enterprise during the first five (5) years from start of commercial operation which had not been previously offset as deduction from gross income shall be carried over for the next five (5) consecutive taxable years from the gross income immediately following the year of such loss; Provided however, That operating loss resulting from availment of incentives provided in this Code shall not be entitled to NOLCO.

Registered enterprises availing of the Income Tax Holiday (ITH) as herein provided shall not be entitled to avail of the Net Operating Loss Carry Over (NOLCO) and vice-versa. Registered enterprises shall have the option to avail of the ITH or NOLCO at the time of registration, but once the option is made, no amendment shall be allowed.

B. CAPITAL EQUIPMENT INCENTIVES – Importations of capital equipment, spare parts, product consumables, or those required for pollution abatement and control including consignment thereof, by registered export-oriented enterprises upon the effectivity of this law shall be exempt to the extent of one hundred percent (100%) of the taxes and custom duties; Provided, That the importation thereof shall be used exclusively by the registered enterprise in its registered activity; Provided further, That importation of source documents by enterprises engaged in information technology shall likewise be fully exempt for the period herein.

C. INCENTIVES ON BREEDING STOCKS AND GENETIC MATERIALS – Importation of breeding stocks and genetic materials within ten (10) years from the date of registration of commercial operation of the enterprise shall be exempt from all taxes and duties: Provided, that such breeding stocks and genetic materials are: (a) reasonably needed in the registered activity; and (b) approved by the Board.

D. EXEMPTION FROM REAL PROPERTY TAX ON MACHINERY AND EQUIPMENT – ECOZONE registered enterprises shall be fully exempt from the payment of the real property tax on equipment and machineries imposed under the Local Government Code.

E. TAX TREATMENT OF MERCHANDISE IN THE ZONE –

(1) Except as otherwise provided in this Code, foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought into the zone to be sold, stored, broken up, repacked, assembled, installed, sorted,



cleaned, graded, or otherwise processed, manipulated, manufactured, mixed with foreign or domestic merchandise whether directly or indirectly related in such activity, shall not be subject to customs and internal revenue laws and regulations nor to local ordinances, the provisions of law to the contrary notwithstanding.

(2) Merchandise purchased by a registered zone enterprise from the customs territory and subsequently brought into the zone, shall be considered as export sales and the exported thereof shall be entitled to the benefits allowed by law for such transaction.

(3) Domestic merchandise on which all internal revenue taxes have been paid, if subject thereto, and foreign merchandise previously imported on which duty of tax has been paid, or which have been admitted free of duty and tax, may be taken into the zone from the customs territory of the Philippines and be brought back thereto free of quotas, duty or tax.

#### F. EXEMPTION FROM LOCAL TAXES AND LICENSES –

(1) Notwithstanding the provisions of law to the contrary, zone registered enterprise shall, to the extent of their construction, operation or production inside the zone be exempt from the payment of any and local government imposts, fees, licenses or taxes.

(2) Production equipment or machineries, not attached to real estate, used directly or indirectly, in the production, assembly or manufacture of the registered product of the zone registered enterprise shall be exempt from real property taxes.

**SECTION 24. Exemption from National and Local Taxes.**- Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, **charges and fees amounting to** three percent (3%) of the gross **revenue** earned by all businesses and enterprises within the ECOZONE shall be **paid and** remitted to the Autonomous Regional Government; another one percent (1%) of such gross **revenue** shall be **paid and** remitted to the municipalities and cities affected by the declaration of the zone in proportion to their population, area and other factors as determined by the REZA. In addition, there is hereby established a development fund of one percent (1%) of the gross **revenue** earned by all businesses and enterprises within the ECOZONE to be utilized for the development of the host Province and municipalities outside the ECOZONE.

The one percent (1%) share of the municipalities and cities affected by the declaration of the ECOZONE shall be directly remitted by the business establishments to the treasurer's office of the municipalities or cities where the enterprise is located in proportion to their population, area and other factors as determined by the REZA.

**However, a portion of the revenues earned shall be retained by the REZA in trust as development funds. The percentage of which shall be determined annually under the Local Fund Appropriations Act by the RLA. For the first five (5) years of operation of the REZA wherein it has actual revenues to be remitted to**

**the autonomous regional government, the amount shall be 20% of the 5% of the gross revenues earned by ECOZONE locators.**

In case of conflict between national, regional and local laws with respect to tax exemption privileges in the ECOZONE, the same shall be resolved in favor of the latter;

**SECTION 25. Applicable National and Local Taxes.** – All persons in the ECOZONE shall be subject to national, regional and local taxes under the National Internal Revenue Code, Revenue Code of the ARMM and the Local Government Code of the ARMM.

**SECTION 26. Domestic Sales.** – Goods manufactured by an ECOZONE enterprise shall be made available for immediate retail sales in the domestic market, subject to payment of corresponding taxes on the raw materials and other regulations that may be adopted by the Board of the REZA.

However, in order to protect the domestic industry, there shall be a negative list of industries that will be drawn up by the REZA. Enterprises engaged in the industries included in the negative list shall not be allowed to sell their products locally. Said negative list shall be regularly updated by the REZA.

The REZA, in coordination with *Department of Trade and Industry-ARMM*, shall jointly issue the necessary implementing rules and guidelines for the effective implementation of this section.

**SECTION 27. Applicability of Banking Laws and Regulations.** – Existing banking laws and *Bangko Sentral ng Pilipinas* (BSP) rules and regulations shall apply to banks and financial institutions to be established in the ECOZONE and to other ECOZONE-registered enterprises. Among other pertinent regulations, these include those governing foreign exchange and other current account transactions (trade and non-trade) local and foreign borrowings, foreign investments, establishment and operation local and foreign banks, foreign currency deposit units, offshore banking units and other financial institutions under the supervision of the BSP: *Provided, however*, That banking and finance shall be liberalized with the establishment of foreign currency depository units of local commercial banks and offshore banking units of foreign banks with minimum Central Bank regulation.

**SECTION 28. After Tax Profits.** – Without prior Bangko Sentral approval, after tax profits and other earnings of foreign investments in the enterprises in the ECOZONE may be remitted outward in the equivalent foreign exchange through any of the banks licensed by the Bangko Sentral ng Pilipinas in the ECOZONE: *Provided, however*, That such foreign investments in said enterprises have been previously registered with the Bangko Sentral.

**SECTION 29. Eminent Domain.** – The areas comprising an ECOZONE may be expanded or reduced when necessary. For this purpose, the REZA, subject to the concurrence of the Regional Governor, shall have the power to acquire, either by purchase, negotiation or condemnation proceedings, any private lands within or adjacent to the ECOZONE for:

- a. Consolidation of lands for zone development purposes;

- b. Acquisition of right of way to the ECOZONE; and
- c. The protection watershed areas and natural assets valuable to the property of the ECOZONE.

If in the establishment of publicly-owned ECOZONE, any person or group of persons who has been **legally** occupying a parcel of land within the Zone has to be evicted, the REZA shall provide the person or group of persons concerned with proper disturbance compensation: *Provided, however,* That in the case of displaced agrarian reform beneficiaries, they shall be entitled to the benefits under the Comprehensive Agrarian Reform Law, including but not limited to Section 36 of Republic Act No. 3844, in addition to a home lot in the relocation site, and preferential employment in the project being undertaken.

**SECTION 30. Leases of Lands and Buildings.** – Lands and buildings in each ECOZONE may be leased to foreign investors for a period not exceeding fifty (50) years renewable once for a period of not more than twenty-five (25) years, as provided for under Republic Act No. 7652, otherwise known as the Investors' Lease Act. The leasehold right acquired under long term contracts may be sold, transferred or assigned, subject to conditions set forth under Republic Act No. 7652.

**SECTION 31. Land Conversion.** – Agricultural lands may be converted for residential, commercial, industrial and other non-industrial purposes, subjects to the conditions set forth under Republic Act No. 6657 and other existing laws of the ARMM.

**SECTION 32. Shipping and Shipping Register.** – Private shipping and related business including private container terminals may operate freely in the ECOZONE, subject only to such minimum reasonable regulations of local application which the REZA may prescribe.

The REZA shall, in coordination with the Department of Transportation and Communications-ARMM and the Department of Trade and Industry-ARMM, maintain a shipping register for each ECOZONE as a business register of convenience for ocean-going vessels and issue related certification.

Ships of all sizes, descriptions and nationalities shall enjoy access to the ports of the ECOZONE, subject only to such reasonable requirement as may be prescribed by the REZA in coordination with the appropriate agencies of the autonomous regional government.

**SECTION 33. Protection of Environment.** - The REZA, in coordination with the appropriate agencies, shall take concrete and appropriate steps and enact the proper measure for the protection of the local environment. It shall issue the Environmental Clearance Certificate or ECC for projects, investments or locators in the ECOZONE. However, until such time as the REZA has developed the personnel and expertise for evaluation of ECC, it may utilize and obtain ECC from the Department of Environment and Natural Resources-ARMM.

**SECTION 34. Termination of Business.** – Investors in the ECOZONE who desire to terminate business or operations shall comply with such requirements and

procedures which the REZA shall set, particularly those relating to the clearing of debts. The assets of the closed enterprise can be transferred and the funds can be remitted out of the ECOZONE subject to the rules, guidelines and procedures prescribed jointly by the Bangko Sentral ng Pilipinas, the Department of Finance and the REZA.

**SECTION 35. Registration of Business Enterprises.** – Business enterprises within a designated ECOZONE shall register with the REZA to avail of all incentives and benefits provided for in this Act.

**SECTION 36. One Stop Shop Center.** – the REZA shall establish a one stop shop center for the purpose of facilitating the registration of new enterprises in the ECOZONE. Thus, all appropriate government agencies that are involved in registering, licensing or issuing permits to investors shall assign their representatives to the ECOZONE to attend to investors' requirements.

**SECTION 37. Halal Certification Board.** – The REZA shall establish a Halal Certification Board in every ECOZONE which shall be composed of representatives coming from Ulama and religious sectors as provided under the Implementing Rules and Regulations as may be formulated by the REZA.

#### *CHAPTER IV*

### **INDUSTRIAL HARMONY IN THE ECOZONES**

**SECTION 38. Labor and Management Relations.** – Except as otherwise provided in this Act, labor and management relations in the ECOZONE shall be governed by the existing Labor Code of the Philippines. Employees and personnel in the ECOZONE enterprises shall receive salaries and benefits and shall enjoy working conditions not less than those provided under the Philippine Labor Code and other relevant laws, issuances, rules and regulations of the autonomous regional government and the Department of Labor and Employment-ARMM.

**SECTION 39. Promotion of Industrial Peace.** – In the pursuit of industrial harmony in the ECOZONE, a tripartite body composed of one (1) representative each from the Department of Labor and Employment-ARMM, Department of Trade and Industry-ARMM, labor sector and business and industry sectors shall be created in order to formulate a mechanism under a social pact for the enhancement and preservation of industrial peace in the ECOZONE within thirty (30) days after the effectivity of this Act.

**SECTION 40. Master Employment Contracts.** – The REZA, in coordination with the Department of Labor and Employment-ARMM, shall prescribe a master employment contract for all ECOZONE enterprise staff members and workers, the terms of which provide salaries and benefits not less than those provided under this Act, the Philippine Labor Code, as amended, and other relevant issuances of the autonomous regional government.

**SECTION 41. Percentage of Foreign Nationals.** – Employment of foreign nationals hired by ECOZONE enterprises in a supervisory, technical or advisory capacity shall not exceed ten percent (10%) of its workforce without the express authorization of the Regional Secretary of the Department of Labor and Employment-ARMM.

SECTION 42. **Migrant Worker.** – The REZA, in **coordination** with the Department of Labor and Employment-ARMM, shall promulgate appropriate measures and programs leading to the expansion of services of the ECOZONE to help the local governments of nearby areas meet the needs of the migrants workers.

SECTION 43. **Incentive Scheme.** – An additional deduction equivalent to one-half (1/2) of the value of training expenses incurred in developing skilled or unskilled labor or for managerial or other management development programs incurred by enterprises in the ECOZONE **as well as, one-half (1/2) the value or cost of research and development conducted by ECOZONE enterprises on its products or core business activity** can be deducted from the autonomous regional government's share of three percent (3%) as provided in Section 24 of this Act.

Another deduction equivalent to one half (1/2) of the value of the provision for and development of facilities, utilities and infrastructures of the ECOZONE as provided in Section 12 (c) and Section 13 (d) of this Act, incurred by enterprises in the ECOZONE can be deducted from the autonomous regional government's share of three percent (3%) as provided in Section 24 of this Act.

The REZA, the Department of Labor and Employment-ARMM, and the Department of Trade and Industry-ARMM, shall jointly make a review of the incentive scheme provided in this section every two (2) years or when circumstances so warrant.

## **CHAPTER V**

### **AUTONOMOUS REGIONAL GOVERNMENT AND OTHER ENTITIES**

SECTION 44. **Relationship with the Regional Economic & Development Planning Board (REDPB).** – The REZA shall determine the development goals for the ECOZONE within the framework of the ARMM development plans, policies and goals, and the administrator shall, upon approval by the REZA Board, submit the ECOZONE plans, programs and projects to the REDPB for inclusion in and as inputs to the overall regional development plan.

SECTION 45. **Relationship with the Local Government Units.** – Except as herein provided, the local government units comprising the ECOZONE shall retain their basic autonomy and identity. The cities shall be governed by their respective charters and the municipalities shall operate and function in accordance with MMA Act No. 25, otherwise known as the Local Government Code of the ARMM.

SECTION 46. **Relationship of REZA to Privately-Owned Industrial Estates.** – Privately-owned industrial estates shall retain their autonomy and independence and shall be monitored by the REZA for the implementation of incentives.

## **CHAPTER VI**

### **TRANSITORY PROVISIONS**

**SECTION 47. Appropriation.** – Upon the effectivity of this Act, such sum as may be necessary for its Capital Outlay, Maintenance, Operating and Other Expenses (MOOE) and Personnel Services (PS) shall be provided in the submission of the ARMM budget to the Department of Budget and Management for inclusion in the General Appropriations Act (GAA) of Congress, to be treated as an equity of the autonomous regional government.

Additional funding shall come from the following:

- a) The annual subsidies, appropriations from the local funds of the ARMM;
- b) The proceeds from the rent of lands, buildings, and other properties of the ECOZONE concerned;
- c) The proceeds from fees, charges and other revenue-generating instruments which the REZA is authorized to impose and collect under this Act;
- d) The proceeds from bonds which the REZA authorized to float both domestic and abroad; and
- e) The advance income, rentals, license fees, and other charges which the REZA is authorized to impose under this Act and which an investor is willing to advance payment for.

**SECTION 48. Transitory Mechanisms for the Initial Organization of the REZA.** - Within one (1) year from the approval of this Act, the Department of Trade and Industry-ARMM shall organize the REZA as an attached agency to it, by drafting and submitting the necessary Capital Outlay, Maintenance, Operating and Other Expenses (MOOE) and Personnel Services (PS) of the REZA for inclusion in the ARMM Budget for the succeeding year as provided in Section 47 of this Act.

Within the period of one (1) year from the approval of this Act, while the REZA is being organized by the Department of Trade and Industry-ARMM as an attached agency to it, and until such time as the regular budget of the REZA is approved by Congress, it shall exercise the powers and functions of the REZA, as provided for in this Act. As such, the Regional Governor may task it to organize ECOZONES and recommend to the Regional Governor the issuance of proclamation for the establishment of ECOZONES within the autonomous region. All line agencies and other government instrumentalities under the ARMM shall give priority assistance to the Department of Trade and Industry-ARMM for the establishment of ECOZONES within the autonomous region.

**SECTION 49 – Organization of the Polloc, Parang, Maguindanao ECOZONE and ARMM Regional Agro-Industrial Growth Center (RAIGC), establishing a Task Force therefore.** - Section 5 (f) of Chapter 1 of Republic Act No. 7916 as amended, or the Philippine Special Economic Zone Act of 1995 established “So much as may be necessary of that portion of Polloc, Parang in the Province of Maguindanao” as an

ECOZONE. As such, there is hereby created a : “Task Force for the Organization of the Polloc ECOZONE as a Model ECOZONE for the ARMM, and the establishment of the RAIGC within the Polloc ECOZONE, or Task Force Polloc ECOZONE, for short.”

The Regional Secretary of the Department of Trade and Industry-ARMM shall be the chairman of Task Force Polloc ECOZONE and its members shall be composed of the following: the ARMM Regional Secretaries of the Department of Agrarian Reform, Department of Agriculture, Department of Environment and Natural Resources, Department of Transportation and Communication, the General Manager of the Regional Port Authority and the Port Manager of the Port of Polloc, the Executive Director of the Regional Planning and Development Office (RPDO), the Mayor of Parang, Maguindanao, one (1) representative from the business enterprises located in Polloc, and one (1) representative from the landowners or real estate owners in the area. The Department of Trade and Industry-ARMM shall act as its secretariat.

**SECTION 50. Objectives of Task Force Polloc ECOZONE** - Task Force Polloc ECOZONE shall consolidate all the areas to be covered by the ECOZONE, and determine its metes and bounds which include other adjacent areas subject to the resolution to join which shall be passed by the Sanguniang Bayan of the Municipality of Parang. The Port of Polloc in Parang, Maguindanao together with adjacent properties of the Regional Port Authority, shall form the nucleus or the core area of the ECOZONE, *Provided, however,* That the Regional Port Authority shall continue to operate the Port of Polloc in coordination with the REZA **until such time as the ECOZONE and Freeport of Polloc is organized or established after which it shall be turned over to the Freeport Administration.** In case of conflict, the ECOZONE rules and regulations shall prevail.

After the consolidation of the land area and waters of the ECOZONE: the Department of Agrarian Reform-ARMM shall issue the Land Use Conversion Clearance Certificate for the ECOZONE in coordination with the Municipality of Parang, Maguindanao; the Department of Agriculture-ARMM shall issue the Certification that the proposed area is not covered by Administrative Order No. 20 and that such land has ceased to be economically feasible for agricultural purposes; the Municipality of Parang, Maguindanao shall issue the Certification specifying that the proposed land use is in accordance with the land use plan duly approved by the legislative council, as well as, a Certification from its water district, if it has one or otherwise, attesting that the identified source of water for the use of the ECOZONE shall not cause water supply problem for the adjacent communities; and the Department of Environment and Natural Resources-ARMM shall issue the Environmental Clearance Certificate (until such time as the REZA can issue said certificate) for the ECOZONE.

The Department of Trade and Industry-ARMM, in coordination with the Task Force members, shall prepare the following documents, as far as practicable, or may hire consultants to do the following work :

- Detailed project feasibility and engineering study (Master Development/Overall Plan);
- Technical description of the area (s) sought to be delineated as an ECOZONE including survey returns duly approved by the Land Management Bureau of the Department of Environment and Natural Resources-ARMM

- Pro-forma contract between the ARMM through the Department of Trade and Industry-ARMM and locators which shall include provision for the continuous maintenance of the ECOZONE.

**SECTION 51. Proclamation by the Regional Governor delineating the metes and bounds of the Polloc ECOZONE and Terminal Report of Task Force Polloc ECOZONE.** – Upon the accomplishment of the requirements as provided in Section 50 of this Act **within the period of one (1) year, or otherwise**, the Regional Secretary of the Department of Trade and Industry-ARMM shall recommend to the Regional Governor of the ARMM the issuance of a proclamation delineating the metes and bounds of the Polloc ECOZONE. **In no case shall the power of the Regional Governor to proclaim the ECOZONE upon recommendation of the Regional Secretary of the DTI-ARMM be curtailed by the failure or delay in the submission of the requirements as provided in Section 50 of this Act.** The Task Force Polloc ECOZONE shall prepare and submit to the Regional Governor and the Regional Legislative Assembly a Terminal Report after the completion of the Polloc ECOZONE for future reference in the establishment of other ECOZONES in the autonomous region.

**SECTION 52. Authority of the Regional Governor to Advance Initial Funding.** – Subject to existing laws, the Regional Governor of the ARMM is hereby authorized to advance out of the savings of the Office of the Regional Governor or from the current local funds of the ARMM, such funds as may be necessary to effect the initial organization of the REZA and the establishment of the Polloc ECOZONE, such funds, as far as practicable, shall be administered by the Department of Trade and Industry-ARMM, which shall not be less than Three Million Pesos (P3,000,000.00), to be reimbursed by the REZA once it is organized at reasonable term and conditions.

Subject to existing laws, the Regional Governor through the Regional Secretary of the Department of Trade and Industry-ARMM, as Chairman of Task Force Polloc ECOZONE, may obtain funding assistance from aid agencies or donor institutions, foreign countries or entities, including business enterprises, for the purpose of this section.

**SECTION 53. Applicability of Regional Laws.-** Laws passed by the Regional Legislative Assembly shall prevail vis-à-vis ECOZONE rules, regulations and standards, unless there is a clear intent in this Act or other Acts of the Regional Legislative Assembly to vest the ECOZONE specific power and privileges not otherwise allowed under existing laws.

**SECTION 54. Ipso-Facto Clause.** – All privileges, benefits, advantages or exemptions granted to special economic zones under Republic Act No. 7227, or the Bases Conversion Act, and Republic Act No. 7916 as amended, or the Philippine Special Economic Zone Act of 1995, shall Ipso-facto be accorded to special economic zones already created or to be created under this Act.

**SECTION 55. Separability Clause.** - The provision of this Act are hereby declared separable, and in the event one or more of such provisions or part thereof are declared unconstitutional, such declaration of unconstitutionality shall not affect the validity of the other provisions thereof.



SECTION 56. **Interpretation / Construction.** – The powers, authorities and functions that are vested in the Regional Economic Zone Authority (REZA) and the ECOZONES concerned are intended to establish decentralization of government functions and authority as well as an efficient and effective working relationship between the ECOZONE, and the autonomous regional government and the local government units.

SECTION 57. **Repealing Clause.** – All regional laws, acts, decrees, executive orders, proclamations and / or administrative regulations which are inconsistent with the provisions of this Act, are hereby amended, modified, superseded or repealed accordingly.

SECTION 58. **Implementing rules and Regulations.** – The Department of Trade and Industry-ARMM, during the interim period while the REZA is being organized as an attached agency to it, shall promulgate the Implementing Rules and Regulations of this Act. Upon the organization of the REZA, the Board of the REZA may adopt such Implementing Rules and Regulations or amend it **with two-thirds or more of its members voting in favor.**

SECTION 59. **Effectivity** – This Act shall take effect after fifteen (15) days following its publication in two (2) newspapers of regional or national circulation.

Approved.

SGD. ISMAEL B. ABUBAKAR, JR  
Speaker

This act was passed by the Regional Legislative Assembly on August 15, 2003.

SGD. MAMA M. AMPATUAN  
Secretary General

Approved:

SGD. PAROUK S. HUSSIN  
Regional Governor